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Contents

Federal Register

Vol. 52, No. 121

Wednesday, June 24, 1987

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

1 CFR
305 23629
310 23629

11 CFR
4 23636
5 23636

12 CFR
563 23640

14 CFR
39 (3 documents) 23641–23645
159 (2 documents) 23762
Proposed Rules
39 (3 documents) 23661–23663

17 CFR
240 23646
Proposed Rules
240 23665
250 23679

18 CFR
154 23650
375 23650
382 23650

20 CFR
Proposed Rules
626 23681
627 23681
628 23681
629 23681
630 23681
631 23681

24 CFR
Proposed Rules
247 23761
886 23761

27 CFR
9 (2 documents) 23650, 23651
Proposed Rules
4 23685
5 23685

33 CFR
4 23653
Proposed Rules
240 23687

34 CFR
Proposed Rules
629 23774

37 CFR
Proposed Rules
202 23691

40 CFR
180 (2 documents) 23653, 23654
799 23761
Proposed Rules
52 23692
180 23694
264 23695
265 23695

41 CFR
101–26 23656
105–53 23656
Proposed Rules
105–60 23697

47 CFR
64 23658
73 (2 documents) 23659
Proposed Rules
73 23704

49 CFR
1039 23660
1090 23660
Proposed Rules
Ch. X 23704

Rules and Regulations

Federal Register
Vol. 52, No. 121
Wednesday, June 24, 1987

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Parts 305 and 310

Recommendations of the Administrative Conference Regarding Administrative Practice and Procedure

AGENCY: Administrative Conference of the United States.

ACTION: Recommendations and statements.

SUMMARY: The Administrative Conference of the United States, at its Thirty-fourth Plenary Session, adopted five recommendations and one statement.

Recommendation 87–1, Priority Setting and Management of Rulemaking by the Occupational Safety and Health Administration, suggests to OSHA that it create an advisory committee, and adopt certain new procedures, to augment its ability to control and direct the rulemaking process used to adopt new standards for regulating health and safety hazards. Recommendation 87–2, Federal Protection of Private Sector Health and Safety Whistleblowers, calls on Congress to enact new legislation to provide for uniform treatment of private sector whistleblowers and recommends improved regulations to facilitate the processing of administrative proceedings concerning alleged retaliation by employers for whistleblowing activity. Recommendation 87–3, Agency Hiring of Private Attorneys, recommends that agencies should adopt written proceures, which should be made publicly available, for hiring private attorneys and for governing conflict of interest and other ethical considerations. Recommendation 87–4, User Fees, sets out general principles, for the use of Congress and relevant agencies, in establishing and implementing user fee programs. Recommendation 87–5, Arbitration in Federal Programs, urges agencies to use arbitration and other alternative dispute resolution techniques in resolving disputes between the agencies and members of the public.

Statement 12, Statement on Resolution of Freedom of Information Act Disputes, sets out the Conference' view that no need has been demonstrated for the appointment of a FOIA ombudsman within the Department of Justice, but that the resolution of administrative appeals of denials of requests under the Freedom of Information Act would be aided by greater agency use of informal alternative dispute resolution techniques.

Recommendations and statements of the Administrative Conference are published in full text in the **Federal Register** upon adoption. Complete lists of recommendations and statements, together with the texts of those deemed to be of continuing general interest, are published in the Code of Federal Regulations (1 CFR Parts 305 and 310).

DATES: These recommendations were adopted June 11–12, 1987, and issued June 17, 1987.

FOR FURTHER INFORMATION CONTACT: Jeffrey S. Lubbers, Research Director (202–254–7065).

SUPPLEMENTARY INFORMATION: The Administrative Conference of the United States was established by the Administrative Conference Act, 5 U.S.C. 571–576. The Conference studies the efficiency, adequacy and fairness of the administrative procedures used by federal agencies in carrying out administrative programs, and makes recommendations for improvements to the agencies, collectively or individually, and to the President, Congress, and the Judical Conference of the United States (5 U.S.C. 574(1)).

At its Thirty-fourth Plenary Session, held June 11–12, 1987, the Assembly of the Administrative Conference of the United States adopted five recommendations and one statement, the texts of which are set out below.

These texts will be transmitted to the affected agencies and, if so directed, to the Congress of the United States. The Administrative Conference of the United States has advisory powers only, and the decision on whether to implement the recommendations must be made by each body to which the various recommendations are directed.

The transcript of the Plenary Session will be available for public inspection at the Conference's offices at Suite 500, 2120 L. Street, NW., Washington, DC.

List of Subjects

1 CFR Part 305

Adjudication, Administrative practice and procedure, Alternative dispute resolution, Arbitration, Attorneys, Rulemaking, Safety and health, Whistleblowers.

1 CFR Part 310

Administrative practice and procedures, Freedom of Information Act.

PART 305—RECOMMENDATIONS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1. The authority citation for Parts 305 and 310 continues to read as follows:

Authority: 5 U.S.C. 571–576.

2. The table of contents to Part 305 of the Title 1 CFR is amended to add the following new sections:

Sec.
305.87–1 Priority setting and managment of rulemaking by the Occupational Safety and Health Administration (Recommendation 87–1).
305.87–2 Federal protection of private sector health and safety whistleblowers (Recommendation No. 87–2).
305.87–3 Agency hiring of private attorneys (Recommendation No. 87–3).
305.87–4 User fees (Recommendation No. 87–4).
305.87–5 Arbitration in Federal programs (Recommendation No. 87–5).

3. The table of contents to Part 310 of Title 1 CFR is amended to add the following new section:

Sec.
310.12 Statement on resolution of Freedom of Information Act disputes.

4. New §§ 305.87–1 through 305.87–5 are added to Part 305, to read as follows:

§ 305.87–1 Priority setting and management of rulemaking by the Occupational Safety and Health Administration (Recommendation 87–1).

The Administrative Conference has undertaken a study of the rulemaking process at the Occupational Safety and Health Administration. It is recognized that OSHA's mandate to regulate any substance or hazard that poses a significant risk to workers and,

to the extent feasible, make every workplace safe is daunting, and that alternative approaches to substance-by-substance regulation may be necessary. The Conference plans to address this larger issue in its continuing study. In this recommendation, the Conference suggests procedures that OSHA can institute administratively to improve two aspects of its current process for developing health and safety standards.

In Part 1, the Conference recommends to OSHA a procedure for systematically setting long-term priorities for promulgating standards for regulating health and safety hazards. Once established, the recommended regulatory priorities lists will serve as a baseline against which additions or modications of the lists can be considered. The task of developing the priority lists would be assigned to a permanent, internal agency committee, with additional representation from the National Institute for Occupational Safety and Health (NIOSH). The committee would work closely with other health and environmental agencies in developing initial priority lists which would be submitted for decision to the Assistant Secretary for Occupational Safety and Health, Department of Labor.[1]

Although these regulatory priorities lists should generally govern when OSHA initiates rulemaking, the Conference does not intend that this priority-setting process should in any way diminish the Assistant Secretary's authority to promulgate rules on an expedited basis under the Occupational Safety and Health Act or the Administrative Procedure Act. Moreover, the recommendation (in paragraph 1.d.) takes account of the need for an expedited priority decision process in certain situations, such as referral by the Environmental Protection Agency of rulemaking topics under the Toxic Substances Control Act or the filing of rulemaking petitions.

The Conference believes that the procedures suggested in Part 1 would be infeasible if OSHA's regulatory priority rankings could be challenged in suits for judicial review. Therefore, the Conference urges that the regulatory priorities lists not be treated as rules for which judicial review would be appropriate.[2] Nonetheless, public participation is desirable, and the Conference sets forth specific steps OSHA should take to involve the public in its priority-setting process.

Part 2 of the recommendation suggests procedures for OSHA's management of rulemaking. The Conference's study revealed the need for systematic monitoring of the progress of individual rulemakings and for greater coordination at the staff and policy levels. Thus, the recommendation suggests that OSHA adopt a computer-based tracking system, a team approach to rulemaking, and an options review process to involve high-level agency policymaking oficials in designated major rulemakings.

The Conference does not intend either the priority-setting or management procedures in this recommendation to affect OSHA's compliance with any other procedural requirements to which it is subject pursuant to statute or executive order.

Recommendation

1. Setting of Priorities for Rulemaking

This part recommends procedures that the Occupational Safety and Health Administration should follow in establishing priorities for promulgating standards for regulating health and safety hazards.

a. *Regulatory Priorities Committee.* OSHA should establish a permanent committee charged with developing regulatory priorities which, once they are approved by the Assistant Secretary for Occupational Safety and Health, Department of Labor, will presumptively apply when the agency undertakes rulemaking to establish health and safety standards.

(1) This committee should include high-level management officials and experienced professionals from OSHA and a representative from the National Institute for Occupational Safety and Health (NIOSH). To provide continuity, committee members should be appointed for staggered terms and be eligible for reappointment. The committee should otherwise be no larger than necessary to discharge its duties.

(2) OSHA should provide adequate staff support for the committee and additional resources as necessary to enable it to gather information on potential rulemaking topics and, where appropriate, to perform risk assessments and priority-setting.

(3) The committee should establish initial priority lists for health and safety regulation and, thereafter, meet regularly to consider addition, deletions or revisions of the lists and to conduct periodic reviews.

(i) In developing an *initial* priority list, the committee should use existing information, including risk assessments and other technical and policy considerations. The committee should avoid elaborate risk assessments or weighting systems, and it should not incorporate by reference lists prepared by other agencies for other purposes.

(ii) It may be appropriate, however, for the committee to utilize more sophisticated risk assessments or weighting systems when it conducts a periodic review of, or considers modifications to, a priority list.

(4) OSHA should work closely with NIOSH, other relevant health and environmental agencies, and the National Toxicology Program in developing its initial priority lists and in revising these lists. In addition, OSHA and NIOSH should establish procedures that will permit rapid exchanges of information on projects that OSHA assigns to the expedited decision process (*see* paragraph d. below).

b. *Judicial Review.* The Assistant Secretary's decision to place a topic on a regulatory priorities list, the ranking of a topic on a list, and subsequent modification of a topic's priority on a list should not be treated as rules for which judicial review would be appropriate. However, the Assistant Secretary should allow public participation in the priority-setting process (in accordance with paragraph c. below) and provide an explanation of priority decisions.

c. *Public Participation.* OSHA should take the following steps to involve the public in its regulatory priority-setting process:

(1) Before establishing the initial priority lists, OSHA should hold public workshops at which interested persons are invited to comment on regulatory priorities.

(2) The results of meetings of the regulatory priorities committee should be made public after the Assistant Secretary has had an opportunity to review any proposed decisions of the committee.

(3) The Assistant Secretary should publish for public comment the proposed initial priority lists of rulemaking topics and, thereafter, any proposed modifications to the lists. The topics on the lists should either be ranked individually or assigned to classes.

d. *Expedited action.* Once the initial priority lists are developed, OSHA should establish a procedure for expediting priority decisions on additional topics or modifications that are presented by referrals from EPA under the Toxic Substances Control Act, rulemaking petitions, or requests from Congress, the President, or other agencies. While separate from the agency's routing priority-setting process, this expedited process should be coordinated with it. The outcome of the expedited process should be the placement of the topic on the appropriate list, modification of a list (*e.g.*, deletion or changed ranking of a topic), or a determination not to place, or modify the placement of the topic, on the list, together with a public explanation for the action.

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[1] In 1982 the Conference addressed the importance of interagency cooperation in identifying and ranking potentially cancer-causing chemicals for regulation and recognized the important role played by the National Toxicology Program in fostering such cooperation. *see* ACUS Recommendation 82-5, Federal Regulation of Cancer-Causing Chemicals, Part II, 1 CFR 305.82-5.

[2] The tentative nature of agency rankings and the need for flexibility were previously recognized by the Conference in considering priority-setting for the regulation of cancer-causing chemicals. *See* ACUS Recommendation 82-5, *id.*, Part I, ¶ 5.

2. Management of the Rulemaking Process.

This part recommends procedures that OSHA should adopt for the management of its rulemaking process.

a. *Action Tracking System.* OSHA should establish a computer status system to set deadlines for meeting established milestones in rulemaking and to provide for systematic review of the progress of ongoing rulemaking. Under this system, management officials, representing all interested agency components, should meet at regular intervals with the Assistant Secretary or a Deputy Assistant Secretary to discuss progress toward designated milestones.

b. *The Team Approach.* OSHA should establish a team concept in rulemaking. A team for each individual rulemaking, consisting of representatives of all potentially interested components of OSHA and the Department of Labor (*e.g.*, the Office of the Solicitor), should be appointed early in the rulemaking process to gather and analyze information, draft documents, respond to comments and advise the Assistant Secretary. Successfully functioning teams should be assigned to additional rulemakings where feasible.

c. *Options Review Process.* OSHA should implement an "options review" process to provide policy guidance to teams working on designated health and safety standard rulemaking. This process [3] would provide that at least once in the early development of such rules (and perhaps again at later stages of rulemaking), the rulemaking team will identify and analyze regulatory options for consideration by a high-level agency policymaking official in an options review meeting. This meeting should produce discussion of alternative approaches for rulemaking and a narrowing of the range of options to be considered in the future; any decisions should be recorded in a memorandum that is available to the team. The options review meeting could be held in conjunction with the regular action tracking meetings recommended above (paragraph 2.a.).

§ 305.87–2 Federal protection of private sector health and safety whistleblowers (Recommendation 87–2).

Private sector employees who make disclosures concerning health and safety matters pertaining to the workplace are protected against retaliatory actions by over a dozen federal laws. By common usage these employees, as well as others who make similar disclosures concerning fraud or other misconduct (but who are byond the Conference's current study),[1] have become known as whistleblowers. Under current statues, for example, nuclear power plant workers, miners, truckers, and farm laborers are specifically protected when acting as whistleblowers. Other workers may be covered under the more general protections granted by the Occupational Safety and Health Act (OSHA) or various environmental laws.

The protection provided employees by the so-called whistleblower statutes under study serves the important public interest of helping ensure the health and safety of workers in the various regulated industries or activities, as well as that of the general public. The statues are intended to create an environment in which an individual can bring a hazardous or unlawful situation to the attention of the public or the government without fear of personal reprisal. Such disclosures can be a valuable source of information especially where the public lacks the knowledge or access to information necessary to be fully informed on these important issues.

In its examination of the current federal statutory scheme designed to protect whistleblowers in the private sector, the Conference found that, as currently written, the various whistleblower statutes lack uniformity in a number of areas including the following:

1. Investigative responsibility is assigned to numerous agencies, including the Department of the Interior and several within the Department of Labor (DOL), with little coordination among them.

2. Adjudicatory responsibility is similarly divided. For example, while several statutes provide for adjudication by a DOL administrative law judge, others provide for decisions by different agencies or for trial in the district court.

3. Judicial review likewise differs. Some statutes provide for review in the district court, some in the court of appeals. And for some, no review is available.

4. Statutes of limitations for filing a complaint range from 30 days to 180 days.

5. Definitions of protected conduct differ according to statute. For example, protected disclosure may include any disclosure or may be more narrowly defined as disclosure to "the public," to the media, to the responsible agency, or to a union or employer. Protected conduct may or may not include refusals to work.

6. In certain cases where the designated agency declines to proceed with the complaint (under either the OSHA or the Asbestos Hazard Emergency Response Act), the complaining employee is left without any further administrative or judicial review.

As a result of these statutory incongruities, available procedures and protections may differ depending solely upon the industry to which an aggrieved employee belongs. For example, an employee seeking protection under the Clean Air Act (CAA) has 30 days in which to file a complaint, while an employee filing under provisions of the Migrant Seasonal and Agricultural Worker Protection Act (MSAWPA) has 180 days. And while both CAA and MSAWPA violations are investigated by the Wage and Hour Division of the Department of Labor, adjudication of CAA complaints is before a DOL administrative law judge, while MSAWPA complaints are adjudicated in the district courts. The Conference has concluded that this lack of uniformity does not appeal to be reasoned, but most likely reflects the incremental enactment of the various statutes over a period of years.

Accordingly, the Conference believes that omnibus whistleblower legislation providing for centralization of the investigative and adjudicative functions is needed. Because the Department of Labor now investigates and adjudicates such complaints under the majority of existing statutes, centralization in that Department is the logical choice. Although specialized expertise possessed by agencies responsible for the various regulatory programs covered by whistleblower provisions may be required in exceptional circumstances to resolve these disputes, the Conference believes that centralization is preferable and that enforcement and adjudicative responsibilities should where feasible be assigned to the DOL.

The Conference study also discussed areas of regulation where gaps in whistleblower protection exist. These include the aviation and aeronautics industries, vessel construction and operation, and manufacturing and production of food, drugs, medical devices or consumer products generally. Where Congress has judged it necessary to regulate an industry so as to ensure the safety of its workplace, products, services or the environment, Congress should consider whether it is appropriate that enforcement of the regulatory scheme be strengthened by providing whistleblower protection for the industry's employees who report statutory violations.

The study also indicated that access to written decisional precedents in these cases needs to be improved. The Department of Labor's Office of Administrative Law Judges does not yet publish its decisions (although it has recently announced plans to do so), and a unified index for these decisions and those of other agency adjudicative bodies does not exist. Publication and indexing of existing case law should help narrow the issues for future adjudications, contribute to a sense of fairness in the adjudicatory process, and improve case management. In addition, the study found that, with certain exceptions, there is little interation between the program agency and the investigating/adjudicating agency, thus diminishing the involvement of the lead program agencies. Procedures should be established by which program agencies provide assistance to investigative agencies, and adjudicatory agencies report decisions back to the program agency.

Finally, the Conference notes that there is a growing amount of litigation in state courts concerning whistleblowers, but does not take a position on whether federal statutes do or

[3] The options review process herein recommended is currently employed successfully by the Environmental Protection Agency.

[1] The Conference has limited its study to health and safety related disclosures because in this area a pattern of federal statutory protections has emerged with sufficient experience to allow a study.

should preempt state law in this field. (ACUS Recommendation 84–5, Preemption of State Regulation by Federal Agencies, recommends that Congress address foreseeable preemption issues, and advises regulatory agencies to be aware of situations where a conflict might arise.)

With the increasing interest in these matters by Congress, the media and the general public, the Conference hopes that its study will provide a foundation for needed improvements.

Recommendation

1. In the interest of uniform treatment of private sector health and safety whistleblowers, Congress should enact omnibus legislation for the handling and resolution of whistleblowers' complaints. In enacting this legislation, Congress should review the categories of workers to which it is appropriate to extend whistleblower protection. As a general matter, the administration of this program should be centralized in the Department of Labor in furtherance of efficiency and harmony of results. If, however, Congress deems it necessary for a program agency to retain or receive investigative or adjudicative responsibility for whistleblower complaints, Congress should strive for uniformity in the substantive protections and procedures applicable to the separate program.[2] The omnibus and any other whistleblower legislation should include:

(A) A uniform definition of protected conduct;

(B) A uniform statute of limitations of not less than 180 days governing the filing of complaints;

(C) A uniform provision for remedies:

(D) Assignment of preliminary investigative responsibility to the Secretary of Labor [3] for all private sector health and safety whistleblowing retaliation cases;

(E) Authorization for the Secretary of Labor to employ alternative means of resolving these disputes, with the consent of the parties (see ACUS Recommendation 86–3, Agencies' Use of Alternative Means of dispute Resolution);

(F) Provision for an opportunity by any affected person to request an on–the–record APA hearing before a Department of Labor administrative law judge and for discretionary review by the Secretary of Labor, judicial review in the courts of appeals, and enforcement in the district courts;

(G) A grant of subpoena power to the Secretary of Labor for whistleblowing investigations and hearings, with provision for judicial enforcement; and

(H) A grant of rulemaking authority to the Secretary of Labor with respect to investigative and adjudicatory procedures, notice–posting requirements and mandatory coordination with other agencies.

II. Whether or not Congress enacts omnibus whisIteblowing legislation, the Secretary of Labor should:

(A) Promulgate rules of appellate procedure governing practice and procedure in connection with the Secretary's review of administrative law judge decisions in whistleblower cases;

(B) Transfer primary private sector health and safety whistleblowing investigative responsibility to a single entity within the Department of Labor, absent compelling reasons to the contrary;

(C) Develop, in consultation with the agencies responsible for the substantive regulatory programs, detailed written procedures for coordinating investigation, adjudication and follow-up in whistleblowing cases; and

(D) In accordance with the Freedom of Information Act, 5 U.S.C. 552(a)(2)(A), index and publish all ALJ and Secretarial decisions in whistleblowing cases, including those rendered prior to the date of this recommendation.

§ 305.87–3 Agency hiring of private attorneys (Recommendation 87–3).

In 1985 the Federal Government employed over 20,000 lawyers in various positions. At the same time it spent millions of dollars to retain private attorneys to provide diverse legal services. The Federal Deposit Insurance Corporation (FDIC) and the Federal Home Loan Bank Board/Federal Savings and Loan Insurance Corporation (FHLBB) accounted for most of these expenditures. The attorney fees paid by the FDIC and the FHLBB have increased rapidly since 1982 and have been incurred primarily in their capacities as receivers or liquidators of failed financial institutions for which they have provided deposit insurance. In those cases, the legal fees and other expenses are borne by the estate of the failed bank. However, many other federal agencies, including government corporations, utilize the services of private attorneys—in some instances on a regular basis—and the fees are usually paid from appropriated funds.

This recommendation results from a survey of the use of private attorneys by government agencies and consideration by the Conference of the process that should be employed in deciding whether to retain outside counsel, including the ethical concerns that may arise when outside counsel are retained. The recommendation applies to any agency that hires private attorneys to represent the agency or to provide it with legal advice, i.e., where an attorney-client relationship is established. The scope of the recommendation accordingly does not extend to instances where an agency hires an individual who may be an attorney but is clearly not being hired to act in that capacity. The scope may therefore exclude some persons who are hired to do independent research, arbitrators hired to decide personnel or other disputes, or persons hired to provide mediation or similar services in connection with negotiated rulemaking.[1]

Retention of private attorneys for litigation, where lawfully authorized, is within the scope of this recommendation. Congress has generally vested the power to litigate in the Department of Justice, although several agencies have been granted independent litigating authority by statute. Unless an agency is granted such authority, the consent of the Department of Justice is required for another agency to retain outside counsel for those purposes (5 U.S.C. 3106).

While some elements of the recommendation may state principles that are relevant to obtaining the services of other professionals, the Conference has studied only the retention of private attorneys. The focus of this recommendation on attorneys recognizes the role of the lawyer in implementing and enforcing government policy and the ethical requirements that are peculiarly applicable to attorneys.

In the private sector, it is cost-effective both to employ a full-time legal staff and to contract out some legal assignments. Many corporations have focused attention on methods to ensure that the size of the in-house staff is optimal and that work is contracted out only when necessary or for certain categories of work. Corporations have developed guidelines, criteria, and procedures to control the cost and ensure the quality of legal services.

In the public sector, concern for cost-effectiveness, a multi-faceted goal which does not look at the factor of price in isolation, is also clearly appropriate. The Conference has considered whether there should be a fixed cap on hourly fees to be paid to private attorneys hired by agencies, and has concluded that a government-wide limitation is inadvisable because it may prevent the government from obtaining high quality legal services. In many cases, the aggregate cost of legal services does not depend on hourly rates alone, and all relevant facts should be considered in determining the economic efficiency of a proposed contract for legal services. It may, however, be appropriate for individual agencies to limit hourly rates for certain types of services, if such limits are set at realistic levels. In hiring private counsel, agencies can also take into consideration the

[1] The Administrative Conference has not studied the appointment of independent counsel under the Ethics in Government Act, 28 U.S.C. 591–598, and this recommendation does not address the selection of such counsel.

[2] The Conference does not intend to suggest that whistleblower protection provisions now administered by the Department of Labor be reassigned. Nor is this recommendation intended to affect the existing jurisdiction of the National Labor Relations Board to investigate and adjudicate allegations of unfair labor practices.

[3] All references to the Secretary of Labor in recommendations I(D)–I(H) encompass other appropriate agency heads in instances where Congress deems it necessary for a program agency to retain responsibility.

attorney's willingness to negotiate fees, seeking the most competitive fees available, while securing the skills and efficiency required.

Important additional considerations bear on the decision of the federal government to rely on outside counsel. An agency should be acutely aware of the need for control over the activities of outside counsel to ensure, among other things, that the constitutional vesting of governmental authority in "officers" of the United States is observed in fact. The need for close control may vary with the circumstances, but it must assume preeminent importance in litigation.

In procuring the services of attorneys, agencies must also scrupulously avoid favoritism, or the appearance of favoritism, which can erode public confidence in the integrity and fairness of the government. Competitive procedures, whether mandated by procurement statutes or imposed as a matter of agency policy, will reduce the prospect or appearance of favoritism and result in higher quality legal services and savings in cost. Depending on the circumstances, the requisite procedures may range from a public solicitation of formal proposals to informal telephone requests to several sources for information relating to qualifications, availability, and fees. Appropriate competitive procedures should consider both cost and the more subjective elements of professional skill and efficiency.

Attorneys performing work for the goverment must maintain the highest ethical standards. They should be particularly sensitive to questions of appearances and propriety. Neither the circumstances of their retention nor their conduct of their engagement should provide the slightest basis for loss of public confidence in the administration or justice or the integrity of the governmental process.

The hiring of outside counsel may raise important questions regarding conflicts between the interests of the government and others, which federal criminal law (18 U.S.C. 202 *et seq.*), ethics rules applicable to federal employees, and codes of professional responsibility seek to guard against. The principal ethical problem for outside attorneys involves simultaneous representation of the agency and, in a separate matter, a private party whose interests are adverse to the agency or the related interests of another agency. An important additional question is presented when an attorney or firm appears before an agency in a non-adversarial role on behalf of one client while simultaneously acting as attorney for the agency in a different matter.

The government, like any client of a private attorney, may consent to representation of adverse interests by its outside counsel. Any such consent, however, should be fully informed. Accordingly, to afford full protection to the government and the public, every effort must be made to identify conflicts or potential conflicts before work is contracted out, and to assure that, during the course of the representation, previously unanticipated problems are immediately disclosed so that the agency may take appropriate action.

Retainer agreements should identify the "client" with specificity and address questions related to existing or potential adverse representations. In many instances, only the agency that retains the private attorney will have an interest in the subject matter of the engagement, and in those instances that agency should ordinarily be considered the "client." This would have the effect of allowing outside counsel to appear before, or represent interests adverse to, other Executive Branch agencies in unrelated matters. Where broader interests of the government may be implicated, the agency retaining outside counsel will need to take those interests into account when drafting the retainer agreement.

To assure that all of these concerns are taken into account, any agency that anticipates a need to hire private attorneys should prepare written public guidelines concerning when and how it will seek outside counsel. As an element of agency control and to avoid later misunderstandings, appropriate written instructions should be given to attorneys when they are retained. The FDIC, FHLBB, and the Department of Justice have developed documents for these purposes, and agencies drafting guidelines and instructions should refer to them as possible models. Agencies may also find useful models in the private sector for some elements of their guidelines.

To respond to the concerns surrounding government use of outside counsel, agencies should prepare an annual public report listing basic information relating to legal service contracts awarded.

Recommendation

1. Scope of Recommendation

This recommendation applies to any agency that hires private attorneys to represent the agency or to provide it with legal advice, i.e., where an attorney-client relationship is established.

2. Use of In-House Government Attorneys

(a) Government agencies should continue to obtain most of the legal services that they need from government attorneys.

(b) When agencies cannot develop the necessary legal resources in-house, they should explore the possibility of utilizing the expertise found at other agencies of the government, on a temporary or short-term basis. The Office of Personnel Management should establish a procedure for sharing information among agencies on the kinds of legal resources available within the government.

3. Guidelines for Hiring Outside Counsel

Each agency that anticipates a need to hire private attorneys should prepare written public guidelines detailing: (a) The criteria for deciding whether or not to seek outside legal assistance, (b) the factors relevant to the choice of attorney or firm, (c) the procedures for procurement, (d) appropriate limitations on counsel's authority, (e) conflict of interest and other ethical considerations, (f) billing practices, and (g) procedures for review of fees.

4. The Decision to Hire Outside Counsel

When an agency is considering whether to hire outside counsel, the agency should first assure itself (a) that it is authorized by law to hire outside counsel for the particular matter, (b) that it can exercise sufficient control over the performance of the services to be obtained, and (c) that such employment is cost-effective. The price of the services should not, however, be the sole test of cost-effectiveness. Also of importance in assessing the benefit to be gained from the use of outside counsel are the quality of the services provided, the availability of necessary expertise within the agency, and the need for an outside independent perspective.

5. Competition

In obtaining outside counsel, the agency should employ appropriate competitive procedures to assure that the requisite quality of service is obtained at a reasonable price without the fact or appearance of favoritism. The Office of Federal Procurement Policy should review the existing provisions of the Federal Acquisition Regulation to ensure that legal services can be procured consistently with the objectives of this recommendation.

6. Control of Performance

The contracting agency should retain such control over the performance of outside counsel as is necessary to assure that the governmental and public interests at stake are fully protected. To facilitate control, the agency should at the outset provide the attorney with specific written instructions regarding the conduct of the professional representation. Control is particularly important where the outside counsel is engaged to represent an agency in litigation.

7. Public Reports

Each agency that hires outside counsel should prepare and maintain in the office of its chief legal officer an annual public report, listing for each occasion on which outside counsel has been retained: (a) The attorney or firm and the type of work involved, (b) the reasons for engaging outside counsel, (c) the competitive procedures used, if any, (d) the fee range or other basis for compensation, and (e) the actual fee paid. For cases involving small amounts, aggregate figures would be acceptable.

8. Ethical Considerations

(a) An agency should require outside counsel whom it plans to hire to disclose fully and in writing all existing or potential conflicts of interest. The disclosure should include all matters that the attorney's firm has pending before, or reasonably expects to come before, that agency. The agency should then decide whether to proceed with the hiring in light of the information provided. If the attorney-client privilege or other rules prevent outside counsel from making full disclosure to the agency, then the outside counsel should not be employed. The agency's agreements with outside counsel should specifically identify the types of professional employment that cannot be undertaken because of the attorney's service to the agency.

(b) Federal agencies and such private attorneys as they retain should be mindful of the constraints imposed by statutes, regulations, executive orders, codes of professional conduct, and any applicable guidelines that pertain to conflict of interest and other potential ethical problems. Such provisions and guidelines should be explicitly identified and incorporated in the agency's contracts with outside counsel.[2]

(c) When an attorney retained by an agency is not a special government employee within the meaning of 18 U.S.C. 202(a), at a minimum those restrictions which apply to such employees should be adopted by the contract with the attorney unless they are clearly inappropriate. Such restrictions include rules of employee responsibilities and conduct contained, for example, in 5 CFR Part 735.[3]

(d) The Department of Justice and the Office of Government Ethics should provide guidance on the applicability of 18 U.S.C. 203-208 to agency hiring of outside counsel. Subject to that guidance, agency guidelines should provide that, for purposes of disqualification based on prohibitions against simultaneous or sequential representation of opposing parties, different departments or independent agencies of the federal government should normally be considered to be different clients.[4] The guidelines should also provide that, if more than one agency has a common interest in the matter, then the definition of "client" should include any such agency or agencies. The guidelines should also make clear that all lawyers in the firm, including all branch offices of the firm, are subject to the applicable restrictions on simultaneous or sequential representation, and that these restrictions apply not merely to litigation, but to all matters in which an attorney-client relationship has been established.[5]

(e) The guidelines should also address the varying circumstances in which an attorney may represent other clients in matters involving the agency. The guidelines should identify those situations that should be avoided.

(f) If a private attorney represents the same agency frequently, then their relationship should be considered as a continuing one. In such a situation, neither the attorney nor the attorney's firm should agree to represent another client in a matter involving the client agency without the agency's explicit consent, even if, at that time, the attorney is not representing or advising the agency on a specific matter.

9. Limitations on Hourly Rates

No government-wide limitation on hourly rates should be established for hiring of private counsel. It may be appropriate for agencies to set a fixed cap on hourly rates that they pay to private attorneys for routine legal tasks; a higher fee cap may be appropriate for unusual or complex legal work. Such limits, if adopted, should be set at realistic levels, in line with fees typically charged for similar services in the same locale, so that agencies hiring outside counsel will be able to obtain the needed degree of expertise.

§ 305.87-4 User fees (Recommendation 87-4).

There is widespread interest in Congress and the Executive Branch in instituting user fees in certain government programs. Although a general user fee statute (31 U.S.C. 9701) dates to 1952, recent studies, including a report of the President's Private Sector Survey on Cost Control, have urged expanded application of such fees. In light of these developments, the Administrative Conference has undertaken a study of the user fee concept in cooperation with the Office of Management and Budget and other federal agencies.

The decision to institute a user fee for a particular service or good is a policy decision for Congress and the Executive Branch to determine, and the Conference does not address this subject. Nevertheless, when Congress or an agency establishes a user fee, that action should be based upon general principles that guide the setting and implementation of fees. The Conference, therefore, in this recommendation seeks to provide a set of such basic principles.

In this recommendation "user fee" means a price charged identifiable individuals or entities by the federal government for a service or good which the government controls. The recommendation addresses only the institution and implementation of user fees to promote the efficient and fair allocation of government services and goods. Accordingly, the Conference does not address the imposition of charges intended primarily to enhance federal revenues or primarily to encourage or discourage behavior unrelated to resource allocation.

Recommendation

A. Benefits

A government service for which a user fee is charged should directly benefit fee payers. A service provided by the government as a condition to the pursuit of commercial or other activity (*e.g.*, inspections) may properly be regarded as a benefit to the fee payer where it confers an advantage on the fee payer or lessens the fee payer's imposition of costs or risks on others or on society as a whole.

B. Basic Considerations for Establishing Fee Levels

1. Market and Cost Considerations

When Congress or an agency establishes a user fee for a service or good provided by an agency, the fee should rest on market factors where possible. In the absence of a reliable market price, the fee normally should cover the agency's costs, including all related processing costs and that portion of other agency costs properly allocable to the service or good provided (such as anticipated capital replacement or repair costs).

2. Other Considerations

a. When criteria other than those set forth in paragraph 1 above (*e.g.*, national policy objectives, program goals or fairness) influence the decision to establish fees, the costs to be recovered, or the granting of waivers or reductions, agencies should explain the criteria used and the rationale for their selection.

[2] The contract should indicate whether and to what extent outside counsel may take inconsistent positions on behalf of an agency and a private client.

[3] See 5 CFR 735.301–306, which prescribe ethics and conduct rules for special government employees. See, particularly, 5 CFR 735.301, which advises agencies that appropriate ethics and conduct rules for regular employees, stated elsewhere in Part 735, may also be made applicable by regulation to special government employees.

[4] This paragraph of the recommendation refers to "clients" solely for the purpose of determining disqualification. The implicit premise of the recommendation is that the Executive Branch is a unitary entity whose interests and legal positions are determined by the President or his delegates, including the Attorney General.

[5] The Department of Justice should consider, in accordance with Recommendation 84-5, 1 CFR 305.84-5, whether to issue a regulation that explicitly preempts any state rule of attorney practice that is in conflict with its guidance.

b. Where third parties or the general public benefit significantly from a governmental service, user fees need not be set to recover fully the cost of providing that service. Agencies should consider the practicability to allocating costs between fee payers and others when determining the proportion of service costs to be recovered by user fees (as opposed to alternative financing mechanisms).

c. The fee level may be set without regard to the distribution of benefits among the customers, employees and owners of the fee payers. However, selection of the point of collection should take into account the costs of administration.

C. Disposition of Fee Receipts

The Conference takes no position on whether fee receipts should be deposited in the Treasury general fund or earmarked to a specific fund. In either event, agencies administering programs that collect fees should be provided with funds sufficient to provide adequate service. In enacting a user fee, Congress should specifically address the issue of how the proceeds are to be used.

D. Implementation of Principles

Congress in revising or enacting user fee legislation, and the Office of Management and Budget in providing implementation guidance and other information on user fees to agencies, should incorporate the principles set out in this recommendation. Agencies should review thier user fee statutes and existing programs to determine whether changes are necessary to implement these principles.

§ 305.87–5 Arbitration in Federal programs (Recommendation 87–5).

The Administrative Conference has recommended that agencies employ alternative means of dispute resolution (ADR) in federal programs.[1] ADR techniques for rulemaking include structured negotiation and mediation; for adjudication, they also include arbitration, factfinding and minitrials.[2] The bulk of these techniques do not alter the placement of policymaking authority within the agencies, and therefore pose few of the legal and policy concerns of binding arbitration, which typically involves the use of outside arbitrators authorized to make descisions binding upon the government. If an arbitrator decides a claim by or against the government, public money will be involved. Arbitration decisions concerning other issues in administering a federal program, such as the resolution of enforcement cases or disputes between the agency and its employees, affect administration of the program. In programs where the agency's role is to resolve disputes between private parties, arbitrated disputes will relate to the purposes of the program, for example by resolving disputes related to program administration. In addition, the Constitution requires that significant duties pursuant to public law must be performed by Officers of the United States and their employees. These concerns can be met if Congress, in authorizing the use of arbitration, or the agency, when adopting arbitration, confines it to appropriate issues and provides for the agency's supervision of arbitration.

Existing law authorizes resort to arbitration in a variety of different contexts, including claims by and against the government, disputes between private individuals that are related to program administration, and labor relations issues between the government and its employees. Recommendation 86–3 calls on Congress to act to authorize agency officials to choose arbitration to resolve many additional disputes.

This recommendation contains procedural advice for Congress, and occasionally agencies, in an effort to ensure the fairness and acceptability of arbitration in federal programs. The criteria are necessarily general, and the appropriateness of particular arbitral procedures must be judged in the context of the particular functions they serve. Agencies are generally in the best position to assess the need for informal and expeditious process, and to weigh that need against considerations of accuracy, satisfaction, and fairness. While the Conference encourages granting agency officials broad "on-the-spot" discretion to use arbitration, it recognizes the need for preliminary steps to meet concerns that the process provide some executive oversight, preserve judicial functions and ensure quality decisions, and maintain legality and fairness. This recommendation sets forth procedural criteria to aid Congress and agencies in taking these first steps.

Recommendation

1. In all cases, congressional authorization for voluntary binding arbitration, whether performed by government employees or private arbitrators, should ensure that Congress has made, or the agency will make, an explicit judgment that arbitration is appropriate for the case or class of cases in question. Criteria for determining whether arbitration is appropriate include the following:

(a) Cases subject to arbitration should involve questions of fact or the application of well-established norms, even if statutory, rather than precedential issues or application of fundamental legal norms that are evolving.

(b) In determining whether to employ arbitration, Congress or the agency should consider the nature and weight of the private interests involved, the nature and weight of the government's interests, and the tradeoffs between the costs and benefits of arbitration and those of more formal processes. A heavy adjudicative caseload and the particularization of decisions in accord with previously declared guidelines justify the use of private arbitrators or other non-government persons.

2. Congress should assess the desirability of mandatory arbitration in light of the extent to which a person's participation in the affiliated program is voluntary.[3] For example, participation in an entitlement program is more likely to reflect need than consent, and should not be regarded as consent to arbitration of eligibility.

3. Congressional authorization for arbitration should ensure that:

(a) The agency has an opportunity to choose whether to resort to arbitration,[4] and to review the overall composition of any arbitral pool to ensure its neutrality and, where appropriate, specialized competence. Agencies should either employ arbitral pools and procedures that are well-established, such as those of the AAA, or should develop rosters or pools to meet their special needs; [5]

(b) Parties to an arbitrable controversy, including an agency, have a role in the selection of the arbitrator, consistent with preserving the neutrality of the decider, for example by striking names from a list; and

(c) Arbitral awards are review by agencies or by courts under the criteria of the U.S. Arbitration Act, which authorizes review of the facial validity of the award and the intergrity of the process. Agencies can be authorized ordinarily to review individual awards with no specific provision for judicial review.[6] If so, no special provision need be made for judical review of individual awards. Judicial review of the overall structure and fairness of the arbitration program should suffice. In the rare case in which a serious constitutional issue attends an individual arbitration, such as an allegation of a taking, existing law provides avenues for relief.

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[1] *See generally* Recommendation 86–3, *Agencies' Use of Alternative Means of Dispute Resolution*, 1 CFR 305.86–3.

[2] *See* Recommendation 82–2, *Resolving Disputes Under Federal Grant Programs*, 1 CFR 305.82–2; Recommendations 82–4 and 85–5, *procedures for Negotiating Proposed Regulations*, 1 CFR 305.82–4 and 85–5; and Recommendation 84–4, *Negotiated Cleanup of Hazardous Waste Sites Under CERCLA*, 1 CFR § 305.84–4.

[3] *See* Recommendation 86–3, ¶¶7–9, *Agencies' Use of Alternative Means of Dispute Resolution*, for other limitations on the use of mandatory arbitration.

[4] *See Id.*

[5] *See* Recommendation 86–8, ¶1(c), *Acquiring the Services of Neutrals for Alternative Means of Dispute Resolution.*

[6] *See* Recommendation 86–3, ¶4, *Agencies' Use of Alternative Means of Dispute Resolution.*

4. Agencies should ensure that the standard for arbitral decisions is reasonably specific, by promulgating administrative standards where statutes do not sufficiently guide arbitral decision. A substantial justice standard for arbitral awards should be used only when explicitly approved by the agency, because of the resulting difficulties of administrative or judicial review of the outcome. The sufficiency of other standards should be judged by whether the parties can consent meaningfully to arbitration and can prepare their cases, whether the arbitrators can produce reasonably consistent decisions, and whether reviewing entities can judge the facial validity of awards.

5. The following considerations should govern the ongoing administration of arbitral programs:

(a) Agencies should be careful to preserve the objectivity of arbitration by avoiding instructions or forms of oversight that would threaten to undermine the arbitrator's neutrality in a particular case. Plainly, however, generally applicable indicators of pertinent government policy, such as interpretive regulations, are meant to be controlling, whether proceedings be in the form of arbitration or agency adjudication.

(b) Authority to determine the arbitrability of particular disputes can be placed in the courts, as under the U.S. Arbitration Act, or in another neutral third party, such as the administering agency where arbitration concerns private parties, or in an agency other than one which is a party to arbitration.

(c) Interpretive rulemaking can alter the standards for future arbitration when monitoring of awards reveals outcomes inconsistent with the agency's expectations in employing arbitration.

5. Add a new § 310.12 to 1 CFR Part 310, to read as follows:

§ 310.12 Statement on resolution of Freedom of Information Act disputes.

The Administrative Conference sponsored a study of the resolution of disputes arising out of Freedom of Information Act ("FOIA") requests that are not handled to the requester's satisfaction at the agency level. Specifically, the study proposed the establishment of an independent administrative tribunal to resolve these disputes, either in formal hearing proceedings or through informal conciliation. Alternatively, the study suggested the appointment of an ombudsman within the Department of Justice to review and report on agency FOIA decisions, mediate FOIA disputes, and/or provide informal assistance to persons requesting information from agencies under FOIA.

Currently available data do not clearly establish the need for either of these specific mechanisms for handling FOIA disputes. The ability of the administrative tribunal in particular to increase the efficiency or effectiveness of FOIA dispute resolution is doubtful, especially given the moderate FOIA caseload (approximately 500 new federal court filings per year) and the high degree of public confidence in the current system of *de novo* judicial review of agency FOIA decisions.

However, the Conference believes that greater reliance on informal approaches to FOIA dispute resolution could result in more effective handling of some FOIA disputes without resort to court litigation; thus these approaches bear further exploration. Accordingly, the Administrative Conference concludes the following:

1. The Conference does not at this time recommend supplanting or changing the currently available remedy of judicial review in federal district courts for requesters denied information under the Freedom of Information Act. However, the Conference does believe that a number of cases filed each year challenging agency denials of information under the Act could be resolved without litigation. Additionally, some disputes involving agency handling of Freedom of Information Act requests (i.e., issues such as processing delay, adequacy of the agency's records search, or availability of fee waivers as distinct from the outcome of the request on the merits) may arise from misunderstandings that could be quickly cleared up through informal investigation or discussion. Continuing attention should be given to developing mechanisms to simplify and to speed the process of review.

2. The Department of Justice and other agencies handling FOIA requests should explore the voluntary use of informal alternative dispute resolution techniques, such as informal investigation of complaints, mediation or conciliation, and provision of a neutral government official to aid the parties in reaching settlement,[1] to avoid unnecessary litigation of Freedom of Information Act disputes, and should use these techniques when appropriate.

3. On a limited basis, the Department of Justice already provides informal assistance to requesters that the Conference believes helps them in resolving Freedom of Information Act disputes. However, this function is not generally known to the public. These services would be valuable to a larger number of people than now receive them, and the Conference encourages the Department of Justice to explore means of making them better known and more generally available.

Jeffrey S. Lubbers,

Research Director.

June 17, 1987.

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[1] *See* ACUS Recommendation 86-3, Agencies' Use of Alternative Means of Dispute Resolution, Paragraph 10.

FEDERAL ELECTION COMMISSION

[Notice 1987-9]

11 CFR Parts 4 and 5

Public Records and the Freedom of Information Act; Request for Comments

AGENCY: Federal Election Commission.

ACTION: Interim rules with request for comments.

SUMMARY: The Commission is revising its regulations governing the Freedom of Information Act (the "FOIA") by promulgating interim rules implementing certain relevant provisions of the Freedom of Information Reform Act of 1986 (Pub. L. 99-570). The Commission requests comments on the interim rules. Specific information on the interim rules is provided in the supplementary information which follows.

DATE: The interim rules are effective on June 24, 1987. To be assured of consideration, comments must be in writing and must be received on or before July 24, 1987. Comments should refer to specific sections in the regulations.

ADDRESS: Comments must be addressed to: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463. All comments received will be available for public inspection in the Commission's Office of Public Records at 999 E Street, NW., Washington, DC between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 376-5690 or Toll Free (800) 424-9530.

SUPPLEMENTARY INFORMATION: The interim rules revising certain of the Commission's regulations set forth at 11 CFR Part 4 arise from the Freedom of Information Reform Act of 1986 ("the Reform Act"), which was enacted on

October 27, 1986 as part of the omnibus Anti-Drug Abuse Act of 1986 (specifically, as sections 1801–04 of that Act). Among the Reform Act's requirements is that agencies follow the revisions to the FOIA's fee provisions beginning on April 27, 1987. The Commission is revising its regulations accordingly. However, the Commission must have fee guidelines to govern FOIA requests received before the final rules are published. Therefore, the Commission is publishing these revised fee regulations as interim rules, while requesting comment on them. These interim rules will be effective until final rules are published. Interim rules are permitted under the Administrative Procedure Act when an agency can show that good cause exists because compliance with the notice and public comment procedures are impracticable. 5 U.S.C. 553(b). As the Commission must now follow the Reform Act's fee provisions, there must be a mechanism for assessing fees pending the Commission's adoption of final rules. Interim rules serve this purpose. Moreover, as required by the Reform Act, the Commission's interim rules adhere closely to the final guidelines issued by the Office of Management and Budget ("OMB"), which were issued after notice and public comment. The Commission will issue final rules following the conclusion of the comment period.

Generally, the Reform Act broadened the law enforcement protections of the FOIA and modified the FOIA's fee provisions. The Reform Act accomplished the former by extensively revising one of the categories for exempting information from disclosure under the FOIA, "Exemption 7" (11 CFR 4.5(a)(7)), and by establishing three special exclusions for specific types of law enforcement records. Only one of these exclusions is relevant to the Commission's work (11 CFR 4.5(b)) insofar as the other two special exclusions govern records maintained by a criminal law enforcement agency and records maintained by the Federal Bureau of Investigation ("FBI"), respectively. *See* 5 U.S.C. 552(c) (2) and (3). The new law enforcement provisions of the Reform Act became effective immediately upon the law's enactment.

The other sections of the FOIA which were revised by the Reform Act were the fee provisions. The purpose of revising the fee provisions is to make the FOIA fees charged by government agencies more uniform. The Reform Act required OMB to promulgate guidelines aimed at developing a standard schedule of fees which can be utilized by all agencies which are subject to the FOIA. Since the exact costs of providing various chargeable services under the FOIA vary among agencies, OMB has developed, in its final guidelines, a set of definitions and procedures governing fees for FOIA services, rather than a single set of specific fees. (*See* 52 FR 10012, March 27, 1987.) In these interim rules, the Commission has followed OMB's guidelines in revising its fee regulations, insuring that they are in conformance with government-wide standards.

In addition to mandating revisions in FOIA fee schedules, the Reform Act also revised the fee reduction and waiver standard. That issue was not covered in OMB's guidelines insofar as OMB determined that it lacked the authority to issue guidance on fee waivers. Accordingly, the Commission's interim rules include a revision of the FOIA fee reduction and waiver standard drawn directly from the language of the Reform Act, along with procedures for implementing that standard.

Finally, along with the revisions to 11 CFR Part 4, the Commission is concomitantly updating certain fees in its fee schedule governing documents obtained from the Commission's Public Disclosure division, which is set forth at 11 CFR 5.6. This fee schedule involves documents which are obtained independently of the FOIA and therefore is unaffected by the Reform Act. The Commission is, however, proposing certain changes in the Public Disclosure fee schedule which are consistent with the revised FOIA fee schedule. These revisions involve the costs of reels of microfilm and staff time and result from changes in the direct costs of microfilm and salaries to the Commission since these regulations were last revised in 1984.

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is hereby certified that these interim rules will not have a significant economic impact on a substantial number of small entities. The basis for this certification is that any economic impact on small entities resulting from these interim rules would be attributable to the Reform Act, not to these regulations.

List of Subjects

11 CFR Part 4

Freedom of Information Act.

11 CFR Part 5

Archives and records.

For the reasons set out in the preamble, Title 11, Parts 4 and 5 of the Code of Federal Regulations are revised as follows.

PART 4—PUBLIC RECORDS AND THE FREEDOM OF INFORMATION ACT

1. The authority citation for Part 4 is revised to read as follows:

Authority: 5 U.S.C. 552, as amended.

2. Section 4.1 is amended by adding paragraphs (g) through (n) to read as follows:

§ 4.1 Definitions.

* * * * *

(g) "Direct costs" means those expenditures which the Commission actually incurs in searching for and duplicating (and, in the case of commercial use requestors, reviewing) documents to respond to a FOIA request. Direct costs include the salary of the employee performing the work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating duplicating equipment. Direct costs do not include overhead expenses such as the cost of space and heating or lighting the facility in which the records are stored.

(h) "Search" means all time spent looking for material that is responsive to a FOIA request, including page-by-page or line-by-line identification of material within documents. This includes both manual searches and searches conducted with a computer using existing programming. Search time does not include review of material in order to determine whether the material is exempt from disclosure.

(i) "Review" means the process of examining a document located in response to a commercial use request to determine whether any portion of the document located is exempt from disclosure. Review also refers to processing any document for disclosure, i.e., doing all that is necessary to excise exempt portions of the document and otherwise prepare the document for release. Review does not include time spent by the Commission resolving general legal or policy issues regarding the application of exemptions.

(j) "Duplication" means the process of making a copy of a document necessary to respond to a FOIA request. Examples of the form such copies can take include, but are not limited to, paper copy, microform, audio-visual materials, or machine readable documentation (e.g., magnetic tape or disk).

(k) "Commercial use" means a purpose that furthers the commercial, trade, or profit interests of the requestor or the person on whose behalf the

request is made. The Commission's determination as to whether documents are being requested for a commercial use will be based on the purpose for which the documents are being requested. Where the Commission has reasonable cause to doubt the use for which the requestor claims to have made the request or where that use is not clear from the request itself, the Commission will seek additional clarification before assigning the request to a specific category.

(l) "Educational institution" means a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(m) "Non-commercial scientific institution" means an organization that is not operated on a commercial basis, as that term is defined in paragraph (k) of this section, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(n) "Representative of the news media" means a person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term news means information that is about current events or that would be of current interest to the public. Examples of news media entities include, but are not limited to, television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of news, as defined in this paragraph) who make their products available for purchase or subscription by the general public. A freelance journalist may be regarded as working for a news organization and therefore considered a representative of the news media if that person can demonstrate a solid basis for expecting publication by that news organization, even though that person is not actually employed by that organization. The best means by which a freelance journalist can demonstrate a solid basis for expecting publication by a news organization is by having a publication contract with that news organization. When no such contract is present, the Commission will look to the freelance journalist's past publication record in making this determination.

3. Section 4.5 is amended by revising paragraphs (a) introductory text and (a)(7), redesignating paragraphs (b) through (d) as paragraphs (c) through (e), and adding a new paragraph (b) to read as follows:

§ 4.5 Categories of exemptions.

(a) No requests under 5 U.S.C. 552 shall be denied release unless the record contains, or its disclosure would reveal, matters that are:

* * * * *

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual.

(b) Whenever a request is made which involves access to records described in 11 CFR 4.5(a)(7) and

(1) The investigation or proceeding involves a possible violation of criminal law; and

(2) There is reason to believe that—

(i) The subject of the investigation or proceeding is not aware of its pendency, and

(ii) Disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings;

the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of the Freedom of Information Act.

* * * * *

4. Section 4.7 is amended by revising paragraph (c) to read as follows:

§ 4.7 Requests for records.

* * * * *

(c) Records or copies thereof will normally be made available either immediately upon receipt of a request or within ten working days thereafter, or twenty working days in the case of an appeal, unless in unusual circumstances the time is extended or subject to 11 CFR 4.9(f)(3), which governs advance payments. In the event the time is extended, the requestor shall be notified of the reasons for the extension and the date on which a determination is expected to be made, but in no case shall the extended time exceed ten working days. An extension may be made if it is—

(1) Necessary to locate records or transfer them from physically separate facilities; or

(2) Necessary to search for, collect, and appropriately examine a large quantity of separate and distinct records which are the subject of a single request; or

(3) Necessary for consultation with another agency which has a substantial interest in the determination of the request, or with two or more components of the Commission which have a substantial subject matter interest therein.

* * * * *

5. Section 4.9 is revised to read as follows:

§ 4.9 Fees.

(a) *Exceptions to fee charges*—(1) *General.* Except for a commercial use requestor, the Commission will not charge a fee to any requestor for the first two hours of search time and the first 100 pages of duplication in response to any FOIA request.

(2) *Free computer search time.* For purposes of this paragraph, the term "search time" is based on the concept of a manual search. To apply this to a search conducted by a computer, the Commission will provide the equivalent dollar value of two hours of professional staff time, calculated according to paragraph (c)(4) of this section, in computer search time. Computer search time is determined by adding the cost of the computer connect time actually used for the search, calculated at the rate of $25.00 per hour, to the cost of the operator's salary for the time spent conducting the computer search, calculated at the professional staff time rate set forth at paragraph (c)(4) of this section.

(3) *Definition of pages.* For purposes of this paragraph, the word "pages" refers to paper copies of a standard agency size which will normally be 8½"

x 11" or 8½" x 14". Thus, while a requestor would not be entitled to 100 free computer disks, for example, a requestor would be entitled to 100 free pages of a computer printout.

(4) *Minimum charge.* The Commission will not charge a fee to any requestor when the allowable direct cost of that FOIA request is equal to or less than the Commission's cost of routinely collecting and processing a FOIA request fee.

(b) *Fee reduction or waiver.* (1) The Commission will consider requests for the reduction or waiver of any fees assessed pursuant to paragraph (c)(1) of this section if it determines, either as a result of its own motion or in response to a written submission by the requestor, that disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and that disclosure of the information is not primarily in the commercial interest of the requestor.

(2) A request for a reduction or waiver of fees shall be made in writing by the FOIA requestor; shall accompany the relevant FOIA request so as to be considered timely; and shall include a specific explanation as to why the fee for that FOIA request should be reduced or waived, applying the standard stated in paragraph (b)(1) of this section to the facts of that particular request. In addition, the explanation shall include: the requestor's (and user's, if the requestor and the user are different persons or entities) identity, qualifications and expertise in the subject area, and ability and intention to disseminate the information to the public; and a discussion of any commercial or personal benefit that the requestor (and user, if the requestor and user are different persons or entities) expects as a result of disclosure, including whether the information disclosed would be resold in any form at a fee above actual cost.

(c) *Fees to be charged.* (1) The FOIA services provided by the Commission in response to a FOIA request for which the requestor will be charged will depend upon the category of the requestor. The categories of FOIA requestors are as follows:

(i) *Commercial use requestors.* A requestor of documents for commercial use will be assessed reasonable standard charges for the full allowable direct costs of searching for, reviewing for release and duplicating the records sought, according to the Commission's schedule of fees for those services as set forth at paragraph (c)(4) of this section. A commercial use requestor is not entitled to two hours of free search time nor 100 free pages of duplication of documents.

(ii) *Educational and non-commercial scientific institution requestors.* The Commission will provide documents to requestors in this category for the cost of duplication of the records provided by the Commission in response to the request, according to the Commission's schedule of fees as set forth at paragraph (c)(4) of this section, excluding charges for the first 100 pages of duplication. Requestors in this category will not be charged for search time. To be eligible for inclusion in this category, requestors must show that the request is being made as authorized by and under the auspices of a qualifying institution and that the records are not sought for a commercial use, but are sought in furtherance of scholarly (if the request is from an educational institution) or scientific (if the request is from a non-commercial scientific institution) research.

(iii) *Requestors who are representatives of the news media.* The Commission will provide documents to requestors in this category for the cost of duplication of the records provided by the Commission in response to the request, according to the Commission's schedule of fees as set forth at paragraph (c)(4) of this section, excluding charges for the first 100 pages of duplication. Requestors in this category will not be charged for search time. To be eligible for inclusion in this category, the requestor must meet the criteria listed at 11 CFR 4.1(n) and his or her request must not be made for a commercial use. A request for records supporting the news dissemination function of the requestor shall not be considered to be a request that is for a commercial use.

(iv) *All other requestors.* The Commission will charge requestors who do not fit into any of the categories listed in paragraphs (c)(1) (i), (ii) or (iii) of this section the full direct costs of searching for and duplicating records in response to the request, according to the Commission's schedule of fees as set forth at paragraph (c)(4) of this section, excluding charges for the first two hours of search time and the first 100 pages of duplication. Requests from record subjects for records about themselves will continue to be treated under the fee provisions of the Privacy Act of 1974 which permit fees only for duplication.

(2) The Commission may assess fees for the full allowable direct costs of searching for documents in response to a request even if the Commission fails to locate any documents which are responsive to that request and, in the case of commercial use requestors, of reviewing documents located in response to a request which the Commission determines are exempt from disclosure.

(3) If the Commission estimates that search or duplication charges are likely to exceed $25.00, it will notify the requestor of the estimated amount of the fee unless the requestor has indicated in advance a willingness to pay a fee as high as that estimated by the Commission. Through this notification, the Commission will offer the requestor the opportunity to confer with Commission staff to reformulate the original request in order to meet the requestor's needs at a lower cost.

(4) The following is the schedule of the Commission's standard fees. The cost of staff time will be added to all of the following fees, generally at the "Professional" rate listed below, except for the cost of "Photocopying from photocopying machines" which has been calculated to include staff time.

Photocopying

Photocopying from photocopying machines—$.07 per page
Photocopying from microfilm reader-printer—$.15 per page
Paper copies from microfilm-paper print machine—$.05 per frame page

Reels of Microfilm

Daily film (partial or complete roll)—$2.85 per roll
Other film (partial or complete roll)—$5.00 per roll
Publications: (new or not from available stocks)
Cost of photocopying document—$.07 per page
Cost of binding document—$.30 per inch
Publications: (available stock)

If available from stock on hand, cost is based on previously calculated cost as stated in the publication (based on actual cost per copy, including reproduction and binding). Commission publications for which fees will be charged include, but are not limited to, the following: Advisory Opinion Index, Report on Financial Activity, Financial Control and Compliance Manual, MUR Index, and Guideline for Presentation in Good Order.

Computer Tapes

Cost to process the request at the rate of $25.00 per hour connect time plus the cost of the computer tape ($25.00) and professional staff time (see Staff Time).

Computer Indexes (including Name Searches): Cost to process the request at the rate of $25.00 per hour connect time plus the cost of professional staff time (see Staff Time).

Staff Time

Clerical: $4.50 per each half hour (agency average of staff below a GS–11) for each request.

Professional: $12.40 per each half hour (agency average of staff at GS–11 and above) for each request.

Other Charges

Certification of a Document: $7.35 per quarter hour.

Transcripts of Commission meetings not previously transcribed: $7.50 per half hour (equivalent of a GS–11 executive secretary).

The Commission will not charge a fee for ordinary packaging and mailing of records requested. However, the Commission will charge the requestor for the full direct costs of all special services, such as express mail, when they are requested.

(5) Upon receipt of any request for the production of computer tape or microfilm, the Commission will advise the requestor of the identity of the private contractor who will perform the duplication services. If fees are charged for the production of computer tape or microfilm, they shall be made payable to that private contractor and shall be forwarded to the Commission.

(d) *Interest charges.* FOIA requestors should pay fees within 30 days following the day on which the invoice for that request was sent to the requestor. If the invoice is unpaid on the 31st day following the day on which the invoice was sent, the Commission will begin assessing interest charges, which will accrue from the date the invoice was mailed. Interest will be charged at a rate that is equal to the average investment rate for the Treasury tax and loan accounts for the 12-month period ending on September 30 of each year, rounded to the nearest whole percentage point, pursuant to 31 U.S.C. 3717. The accrual of interest will be stayed by the Commission's receipt of the fee, even if the fee has not yet been processed.

(e) *Aggregating requests.* A requestor may not file multiple requests, each seeking portions of a document or documents, in order to avoid payment of fees. When the Commission reasonably believes that a FOIA requestor or group of requestors acting in concert is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the Commission will aggregate any such requests and charge the appropriate fees. In making this determination, the Commission will consider the time period in which the requests have occurred, the relationship of the requestors, and the subject matter of the requests.

(f) *Advance payments.* The Commission will require a requestor to make an advance payment, i.e., a payment before work is commenced or continued on a request, when:

(1) The Commission estimates or determines that allowable charges that a requestor may be required to pay are likely to exceed $250. In such a case, the Commission will notify the requestor of the likely cost and, where the requestor has a history of prompt payment of FOIA fees, obtain satisfactory assurance of full payment, or in the case of a requestor with no FOIA fee payment history, the Commission will require an advance payment of an amount up to the full estimated charges; or

(2) A requestor has previously failed to pay a fee in a timely fashion (i.e., within 30 days of the date of the billing). In such a case, the Commission may require that the requestor pay the full amount owed plus any applicable interest or demonstrate that the fee has been paid and make an advance payment of the full amount of the estimated fee before the Commission begins to process a new request or a pending request from that requestor.

(3) If the provisions of paragraph (f)(1) or (2) of this section apply, the administrative time limits prescribed in 11 CFR 4.7(c) will begin only after the Commission has received the payments or the requestor has made acceptable arrangements to make the payments required by paragraph (f)(1) or (2) of this section.

PART 5—ACCESS TO PUBLIC DISCLOSURE DIVISION DOCUMENTS

1. The authority citation for Part 5 continues to read as follows:

Authority: 2 U.S.C. 437f(d), 437g(a)(4)(B)(ii), 438(a), and 31 U.S.C. 9701.

2. Section 5.6(a)(1) is amended by revising the fees for "Reels of Microfilm", "Research Time/Photocopying Time", and "Other Charges" to read as follows:

§ 5.6 Fees.

(a)(1) * * *

Reels of Microfilm

Daily film (partial or complete roll)—$2.85 per roll

Other film (partial or complete roll)—$5.00 per roll

Research Time/Photocopying Time

Clerical: First ½ hour is free; remaining time costs $4.50 per each half hour (agency average of staff below a GS–11) for each request

Professional: First ½ hour is free; remaining time costs $12.40 per each half hour (agency average of staff at GS–11 and above) for each request

Other Charges

Certification of a Document: $7.35 per quarter hour

Transcripts of Commission meetings not previously transcribed: $7.50 per half hour (equivalent of a GS–11 executive secretary)

* * * * *

Dated: June 18, 1987.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 87–14220 Filed 6–23–87; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 87–661–A]

Regulatory Capital Requirements of Insured Institutions; Clarification

Dated: June 10, 1987.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; clarification.

SUMMARY: The Federal Home Loan Bank Board ("Board") as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC") is amending its regulation setting the regulatory capital requirements for institutions insured by the FSLIC ("insured institutions") by clarifying a portion of the regulatory capital regulation that affects the computation of the contingency component.

EFFECTIVE DATE: June 10, 1987.

FOR FURTHER INFORMATION CONTACT: Jerilyn Rogin, Staff Attorney, (202) 377–7018, Jerome L. Edelstein, Assistant Director, (202) 377–7057, John F. Connolly, Deputy Director for Capital and Finance, (202) 377–6465, Regulations and Legislation Division, Office of General Counsel; Richard C. Pickering, Deputy Director, (202) 377–6770, or Joseph A. McKenzie, Director, Policy Analysis Division, (202) 377–6763, Office of Policy and Economic Research, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: This amendment is made pursuant to the Board's general authority under the National Housing Act and specifically under section 403(b), 12 U.S.C. 1726(b), as amended by the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97–320, section 202(d), 96 Stat. 1469, 1492.

On August 15, 1986, the Board adopted its revised regulatory capital regulation establishing the levels of capital required for all insured institutions. *See* Board Res. No. 86–857, 51 FR 33565–88 (Sept. 22, 1986) ("capital regulation"). Among other things, the capital regulation requires that insured

institutions maintain regulatory capital equal to at least six percent of net liability growth after December 31, 1986. The regulation also generally increases insured institutions' regulatory capital requirements on the level of liabilities each insured institution had on January 1, 1987. The capital on these existing liabilities must increase from the institution's capital requirement (before adjustment for contingency factor or qualifying balances) on January 1, 1987, to six percent over a transition period the length of which is determined by industry profitability.

The contingency component of the capital regulation, § 563.13(b)(4), imposes incremental capital requirements on insured institutions' assets that the Board has determined expose depositors and the FSLIC to increased credit risk. The incremental requirements on scheduled items, recourse liabilities, and standby letters of credit are fixed percentages of the amounts of such assets. The incremental capital requirements on each insured institution's direct investments, land loans, and nonresidential construction loans ("variable reserve elements") are based on a sliding scale that is a function of an insured institution's capitalization and its concentration of assets in each of the three designated asset categories. The capital regulation also includes a grandfathering provision for certain of these assets.

In applying the sliding scale to the variable reserve elements, an issue has arisen concerning the treatment of grandfathered variable reserve elements for purposes of the sliding scale. The Board hereby clarifies that grandfathered variable reserve elements are not subject to incremental capital requirements, but are included in determining an institution's concentration of assets in a particular asset category.

For example, assume that an insured institution meets its regulatory capital requirement but does not meet the higher of its net fully phased in capital requirement or six percent of its total liabilities—namely, it falls in the middle category of insured institutions under the capital thresholds of the contingency component's sliding scale. Such an insured institution would have a five percent incremental capital requirement up to ten percent of its assets and a ten percent capital requirement above that concentration level. Further assume that the insured institution has total assets of $100 million and $15 million of direct investment of which $5 million is grandfathered. In computing its concentration of direct investments, the first five percent ($5 million) of its direct investment basket is composed of the institution's grandfathered direct investments. Its $10 million of non-grandfathered direct investment is then split between the concentration category up to ten percent and the concentration category between ten and twenty percent.

This means that the institution has an incremental requirement of five percent on its first $5 million of non-grandfathered direct investment (up to ten percent concentration limit) and ten percent of the $5 million in excess of the ten percent concentration limit. This results in a total incremental requirement of $250,000 on the institution's direct investment portfolio.

The Board is clarifying this treatment, which insured institutions and the Board are already applying, to avoid any industry confusion.

The Board finds that this clarifying amendment is interpretative in nature and is therefore not subject to the notice and comment provisions of the Administrative Procedure Act. See 5 U.S.C. 553. Pursuant to 12 CFR 508.11 and 508.14, the Board finds that, because of the minor, technical nature of this clarifying amendment, notice and public procedure are unnecessary, as is the 30-day delay of the effective date.

List of Subjects in 12 CFR Part 563

Bank deposit insurance, Investments, Reporting and recordkeeping requirements, Savings and loan associations.

Accordingly, the Board hereby amends Part 563, Subchapter D, Chapter V, Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

1. The authority citation for Part 563 continues to read as follows:

Authority: Sec. 1, 47 Stat. 725, as amended (12 U.S.C. 1421 *et seq.*); sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended (12 U.S.C. 1425a); sec. 5B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425b); sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 401–407, 48 Stat. 1255–1260, as amended (12 U.S.C. 1724–1730); sec. 408, 82 Stat. 5, as amended U.S.C. (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071.

2. Amend § 563.13 by revising paragraph (b)(4)(i)(E) to read as follows:

§ 563.13 Regulatory capital requirement.

* * * * *

(b) * * *

(4) *Calculation of contingency component.* (i) * * *

(E) "Variable reserve elements" means direct investments, land loans, and nonresidential construction loans. Grandfathered variable reserve elements are not subject to incremental capital requirements but are included in determining an insured institution's concentration of assets in one of the categories of variable reserve elements.

* * * * *

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 87-14270 Filed 6-23-87; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-134-AD; Amdt. 39-5646]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 86-06-01, applicable to Boeing Model 767 series airplanes, which currently requires repetitive inspections of certain pneumatic system 8th stage check valves, and repair or replacement of the valve, as necessary. This amendment requires repetitive inspections of additional pneumatic system 8th stage check valves, repair or replacement of these valves as necessary, replacement of certain valves with more than 9,500 hours time in service, and provides a terminating action. This amendment is prompted by two recent reports of engine shutdown due to engine surging resulting from failed 8th stage check valves. This condition, if not corrected, could result in engine shutdown, engine damage, or damage to the pneumatic system.

EFFECTIVE DATE: July 27, 1987.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway

South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. McCracken, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, Seattle Aircraft Certification Office; telephone (206) 431-1947. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Airworthiness Directive (AD) 86-06-01, Amendment 39-5257 (51 FR 8792; March 14, 1986), was issued as a final rule with a request for comments from the public. That AD requires the inspection of certain pneumatic system 8th stage check valves, and repair or replacement of the valve, as necessary.

Based on comments received in response to AD 86-06-01, the FAA issued a Notice of Proposed Rulemaking (NPRM), Docket 86-NM-134-AD (51 FR 39864; November 3, 1986), proposing to revise AD 86-06-01 by requiring repetitive inspections of additional versions of the subject valve that may be subject to similar failures, and providing an optional terminating action for the repetitive inspection requirement. The comment period for the NPRM ended December 22, 1986. This comment period afforded interested persons an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter noted typographical errors in paragraphs B. and E.1. of the proposed rule. These paragraphs have been revised accordingly. The same commenter suggested that the initial compliance time stated in paragraph A. of the proposed rule should refer to the effective date of AD 86-06-01 (which originally mandated the repetitive inspections), and that the initial compliance time stated in paragraph B. of the proposed rule should refer to this action. The FAA disagrees. Since this final rule supersedes the referenced AD, it would not be appropriate to reference that AD for establishing compliance times.

This commenter also stated the following: "The statement in the proposed rule that requires operators to inspect valves not installed on the airplane should be deleted from paragraph C. of the proposed rule. FAR 39.3 requires that an AD apply to the operation of (aircraft) products. Valves that are not installed on airplanes may never be operated and a proposed rule which requires such valves to be inspected exceeds the regulatory authority of AD rulemaking." The FAA does not agree with this interpretation of the proposed requirement. The sentence in question states "Valves manufactured prior to March 1, 1985, and not installed on an airplane, must be inspected prior to their installation." This provision was included both in AD 86-06-01 and in the proposed rule for two reasons:

1. There is reason to believe that such valves (P/N 773856-3) may contain loose poppet attachment bolts, even though they may be new. Therefore, as stated in the preamble to AD 86-06-01, inspection prior to installation is necessary to prevent the unsafe condition.

2. FAR 39.11 states that AD's prescribe "inspections and the conditions and limitations under which those products may continue to be operated." The requirement to inspect valves prior to installation prescribes a condition under which a product may continue to be operated and is, therefore, an appropriate AD requirement.

Finally, this commenter stated that paragraph E.2. of the proposed rule should be deleted, since the P/N 773856-6 valve has not been manufactured yet. The commenter's statement is correct, and this comment is discussed in detail below.

The other commenter was the Boeing Company. It stated that there have been two changes to the manner in which the valve configurations are identified. First, there have been no P/N 773856-6 valves manufactured, and at the present time, there are no plans to do so. Second, the valve configuration identified in the proposed rule as a P/N 773856-6 valve is now being produced as "P/N 773856-5 stock list L3" valve. There is no physical change to the valve, only the name has been changed. Boeing stated its understanding that no P/N 773856-5 valves are in existence which do not bear the additional identification of "stock list L3," which indicates incorporation of a certain service bulletin. Boeing requested that reference to the P/N 773856-5 valve be dropped from the final rule, and that the reference to the P/N 773856-6 valve be replaced by "P/N 773856-5 stock list L3" valve. The FAA disagrees with dropping the reference to the P/N 773856-5 valve. The FAA finds that the change in part numbering, with no corresponding change in valve configuration, could cause confusion. Also, there is a possibility that there are P/N 773856-5 valves in existence that have not been further modified to the "stock list L3" configuration. To alleviate the possibility of confusion, the final rule makes reference to the P/N 773856-5 valve, as was done in the proposed rule. However, the references to the P/N 773856-6 valve have been changed in the final rule to reflect "P/N 773856-5 stock list L3" valves.

Following the issuance of the NPRM, the FAA has received reports of two additional failures of check valves which led to engine shutdowns and single engine landings. In addition, another valve was found cracked, but not separated, during a subsequent inspection required by the existing AD. These new failures resulted from cracks located at a different location in the valve from those addressed in the existing AD and the NPRM. Because the new cracks originate on the inside of the poppet, they are difficult to detect during an external valve inspection. Their presence has been detected only on valves with operating time in excess of 11,000 hours. As the propagation rate for the cracks is not known, a repetitive inspection will not reliably detect the cracks before a valve failure occurs. This new information makes the optional terminating action proposed in the NPRM inappropriate.

Failure of the 8th stage check valve allows high pressure air to enter the 8th stage of the engine when the high stage valve opens during low cruise or idle power operation, causing engine surge and compressor stall, which leads to engine shutdown. As many Model 767 airplanes have operating hours in excess of 10,000 hours, the FAA has determined that it is necessary to require replacement of high time valves before they are subject to failure from the most recently discovered cracks which originate on the inside of the poppet.

On January 17, 1986, The Boeing Company issued Service Bulletin 767-36-0017, which describes inspection and repair procedures applicable to the subject valve. On January 23, 1987, Hamilton Standard issued Service Bulletin 36-2046, Revision 1, which describes replacement of the poppet, P/N 774909-1, in the check valve with a new poppet, P/N 774909-2. On April 15, 1987, Hamilton Standard issued Service Bulletin 36-2055, which describes replacement of the poppet, P/N 774909-1, with a new poppet, P/N 774909-3.

The poppet installed in accordance with Service Bulletin 36-2046 is designed to prevent the cracking addressed by AD 86-06-01, but is not designed to prevent the cracks originating on the inside of the poppet, which were discovered later. Therefore, valves with these poppets installed, including P/N 773856-5 stock list L3 valves, will continue to be subject to the

replacement requirement of this AD. The poppet installed in accordance with Service Bulletin 36–2055 has a thicker wall throughout its length, and is designed to resist cracking of both kinds for the life of the airplane. Therefore, installation of valves which are modified in accordance with Service Bulletin 36–2055, or new valves which are fitted with the same poppet, P/N 774909–3, constitute terminating action from the inspections and replacement required by this AD.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously noted.

Since this condition is likely to exist or develop on other airplanes of the same type design, this AD requires inspection, and, as necessary, repair or replacement of all pneumatic system 8th stage check valves in accordance with the service bulletins previously mentioned. In addition, valves which have accumulated 9,500 hours time in service must be replaced with new or rebuilt valves within 500 hours after the effective date of this AD.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By superseding AD 86–06–01, Amendment 39–5257, (51 FR 8792; March 14, 1986), with the following new airworthiness directive:

Boeing: Applies to all Model 767 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To preclude engine or pneumatic system damage caused by the failure of the pneumatic system 8th stage check valve, Hamilton Standard Part Numbers 773856–3, 773856–4, 773856–5, or 773856–5 stock list L3, accomplish the following:

A. For airplanes equipped with pneumatic system 8th stage check valves, Hamilton Standard Part Number 773856–3, manufactured prior to March 1, 1985: Within the next 50 hours time-in-service after the effective date of this AD, unless accomplished within the last 1950 hours time-in-service, inspect the valve in accordance with Boeing Service Bulletin 767–36–0017, dated January 17, 1986.

B. For airplanes equipped with pneumatic system 8th stage check valves, Hamilton Standard Part Number 773856–3 manufactured on or after March 1, 1985, 773856–4, or 773856–5: Within the next 500 hours time-in-service after the effective date of this AD or prior to such valves accumulating 2000 hours time-in-service, whichever occurs later, inspect the valve in accordance with Boeing Service Bulletin 767–36–0017, dated January 17, 1986, or later FAA-approved revisions. Valves identified as Part Number 773856–5 stock list L3 have been modified and are not subject to the initial inspection or the repetitive inspection required by Paragraph D., below.

C. If any valve inspected in accordance with paragraphs A. or B., above, contains any visible cracks, or exceeds the allowable wear limits specified in the referenced service bulletin, before further flight, repair the valve in accordance with the referenced service bulletin, or replace the valve with a serviceable valve. Valves, P/N 773856–3, manufactured prior to March 1, 1985, and not installed on an airplane, must be inspected and repaired, if necessary, prior to their installation.

D. Repeat the inspection procedures required by paragraphs A. and B., above, at intervals not to exceed 2,000 hours time-in-service.

E. For airplanes equipped with pneumatic system 8th stage check valves, Hamilton Standard Part Number 773856–3, 773856–4, 773856–5, and 773856–5 stock list L3: Within 500 hours time in service after the effective date of this AD or prior to accumulation of 9,500 hours time-in-service on the valve, whichever occurs later, replace the valve with a new valve or a valve which has been reworked in accordance with Hamilton Standard Service Bulletin 36–2046, Revision 1, dated January 23, 1987, or 36–2055, dated April 23, 1987.

F. Replacement valves which have been rebuilt in accordance with Hamilton Standard Service Bulletin 36–2046, Revision 1, dated January 23, 1987, or later FAA approved revision, are no longer subject to the inspections required by paragraphs A., B., or D., but must be replaced as required by paragraph E.

G. Installation of a pneumatic system 8th stage check valve which has been rebuilt in accordance with Hamilton Standard Service Bulletin 36–2055, dated April 15, 1987, or a new valve with the production equivalent of that service bulletin, constitutes terminating action for the inspections and replacement required by this AD.

H. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

I. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the inspections required by this AD.

All persons affected by this directive who have not already received copies of the service bulletins cited herein may obtain copies upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This Amendment supersedes Amendment 39–5257, AD 86–06–01.

This Amendment becomes effective July 27, 1987.

Issued in Seattle, Washington on June 11, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87–14275 Filed 6–23–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 87–CE–10–AD; Amendment 39–5649]

Airworthiness Directives; Pilatus Britten-Norman, Ltd., Model BN–2A Mk III Trislander Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD),

applicable to Pilatus Britten-Norman, Ltd., (PBN) Models BN-2A Mk III, BN-2A Mk III-1, BN-2A Mk III-2, and BN-2A Mk III-3 Series airplanes, which requires correction of the severe internal corrosion problem of the elevator trim tab operating rods. Several in-service reports have been received that rods, which are constructed from steel tubing, have been found with internal corrosion breaking through to the external surface, which could lead to failure of the rod and result in tab disconnect. This AD will detect this internal corrosion and preclude the possible loss of aircraft control.

DATES: Effective date: July 27, 1987.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Pilatus Britten-Norman Mandatory Service Bulletin BN-2/SB.179, Issue 1, dated January 30, 1987, applicable to this AD, may be obtained from Pilatus Britten-Norman, Ltd., Bembridge, Isle of Wight, England. This information may be examined at the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Ted Ebina, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, B-1000 Brussels, Belgium; Telephone (322) 513.38.30; or Mr. H.C. Belderok, FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring inspection for any corrosion, replacement if necessary, cleaning, internal corrosion protection of the two (2) elevator tab rod assemblies on certain Pilatus Britten-Norman airplanes was published in the **Federal Register** on April 7, 1987 (52 FR 11081). The proposal resulted from several in-service incidents having been reported that elevator trim tab operating rods, which are constructed from steel tubing, have been found with severe internal corrosion breaking out to the surface. The cause of the corrosion has been traced to an assembly procedure when a "LOCKTITE" sleeve was placed over a cleaned surface in the steel tab rod tube assembly and the surface was not reprotected, and internal rusting occurred. Consequently, Pilatus Britten-Norman, Ltd., issued Pilatus Britten-Norman Mandatory Service Bulletin (MSB) BN-2/SB.179, Issue 1, dated January 30, 1987, which requires removal of the two (2) elevator tab rod assemblies from the airplane, dismantling of the rods, inspection for any corrosion, replacement if necessary, cleaning, internal corrosion protection, and reinstallation.

The Civil Airworthiness Authority-United Kingdom (CAA-UK), which has responsibility and authority to maintain the continuing airworthiness of these airplanes in Great Britain, classified this Pilatus Britten-Norman MSB No. BN-2/SB.179, Issue 1, dated January 30, 1987, and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes.

On airplanes operated under CAA-UK registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the CAA-UK combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA examined the available information related to the issuance of Pilatus Britten-Norman MSB No. BN-2/SB.179, Issue 1, dated January 30, 1987, and the mandatory classification of this service bulletin by the CAA-UK, and concluded that the condition addressed by Pilatus Britten-Norman MSB No. BN-2/SB.179, Issue 1, dated January 30, 1987, was an unsafe condition that may exist on other airplanes of this type certificated for operation in the United States. Accordingly, the FAA proposed an amendment to Part 39 of the FAR to include an AD on this subject.

Interested persons have been afforded an opportunity to comment on the proposal. No comments or objections were received on the proposal or the FAA determination of the related cost to the public. The FAA has determined that this regulation involves 13 airplanes at an approximate cost recurring every 24 months of $160 for each airplane.

The cost of compliance with the proposed AD is so small that the expense of compliance will not be a significant financial impact on any small entities operating these airplanes.

Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES".**

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Pilatus Britten-Norman, Ltd.: Applies to Models BN-2A Mk III, BN-2A Mk III-1, BN-2A Mk III-2, and BN-2A Mk III-3 (all serial numbers) Trislander airplanes certificated in any category.

Compliance: Required within 30 days after the effective date of this AD, unless already accomplished, and every 24 calendar months thereafter.

To prevent structural failure of the elevator trim tab operating rods, accomplish the following:

(a) Remove the two (2) elevator trim tab operating rod assemblies in accordance with the instructions contained in the "INSPECTION" section of Pilatus Britten-Norman, Ltd., Mandatory Service Bulletin (MSB) No. BN-2/SB.179, Issue 1, dated January 30, 1987 (hereinafter referred to as MSB BN-2/SB.179).

(1) Disassemble one end of each control rod and visually examine the rod (tube) internally and externally for corrosion, rust, or cracks.

(i) If any corrosion, rust, or crack is found, before further flight, replace the control rod and accomplish paragraphs (a)(1) through (a)(3) of this AD on the replacement unit.

(ii) If no defect is found, clean and apply corrosion protection to the rod in accordance with the "RECTIFICATION" instructions of MSB BN-2/SB.179, and

(2) Visually inspect each ball end or fork fitting and sleeve (Part Number (P/N) NB-45-2627), after removing any surface rust, for pitting, discoloration, or cracks. If any evidence of corrosion, pitting, discoloration, or crack is found, before further flight:

(i) Replace the defective part with a serviceable unit.

(ii) Remove the fitting and sleeve from the other end of the associated control rod and repeat the inspection specified in paragraph (a)(2) of this AD.

(3) Reassemble the control rods in accordance with the "RECTIFICATION" instructions of MSB BN-2/SB.179.

(4) Reinstall the control rod in accordance with the "RETURNING THE AIRCRAFT TO SERVICE" instructions of MSB BN-2/SB.179.

(b) Aircraft may be flown in accordance with FAR 21.197 to a location where this AD can be accomplished.

(c) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, B-1000 Brussels, Belgium.

All persons affected by this directive may obtain copies of the document referred to herein upon request to Pilatus Britten-Norman, Ltd., Bembridge, Isle of Wight, England; or may examine the document referred to herein at FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on July 27, 1987.

Issued in Kansas City, Missouri, on June 11, 1987.

Donald J. Schneider,

Acting Director, Central Region.

[FR Doc. 87-14276 Filed 6-23-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-CE-22-AD; Amendment 39-5650]

Airworthiness Directives; SOCATA Models TB 20 and TB 21 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to SOCATA Models TB 20 and TB 21 airplanes, which requires visual inspection of the aileron balance weight attachment rivets and aileron skin, replacement of loose rivets and repair of cracks in the aileron skin, or replacement of the aileron. Reports have been received by the manufacturer of loose rivets and cracked aileron skin in the area of the balance weight installation. The actions prescribed in this AD will identify and repair cracks and loose rivets and prevent possible aileron flutter, loss of structural integrity, and loss of aircraft control.

DATES: *Effective date:* June 26, 1987.

Compliance: As prescribed in the body of the AD.

ADDRESSES: SOCATA Aircraft S/B No. 28, dated December 1986, applicable to this AD may be obtained from SOCATA Groupe AEROSPATIALE, B.P. 38, 65001 Tarbes, France; Telephone 62.51.73.00 or 62.93.99.45 (for recorder); or Mr. Bernard H. Veyssiere, Deputy Product Support Manager, U.S., AEROSPATIALE, 2701 Forum Drive, Grand Prairie, Texas 75053; Telephone (214) 641-3614. This information may be examined at the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Dow, Sr., Aerospace Engineer, ACE-109, Aircraft Certification Division, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932, or Mr. Roger Anderson, Aerospace Engineer, AEU-100, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy; Telephone 513.38.30.

SUPPLEMENTARY INFORMATION: The FAA analysis of the unsafe condition is based upon the manufacturer's service bulletin information and the resultant French AD. SOCATA issued TB Aircraft S/B No. 28, dated December 1986, which describes inspection, repair or replacement of the ailerons on Model TB20 and TB21 airplanes. The French Director General of Civil Aviation (DGAC), who has responsibility and authority to maintain the continuing airworthiness of these airplanes in France, has classified these actions as "Imperative" and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under French registration, this action has the same effect as an AD on airplanes certificated for operation in the United States. The FAA relies upon the certification of DGAC combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of TB Aircraft S/B No. 28, dated December 1986, and the mandatory classification of this S/B by the DGAC, and subsequent issuance of French AD 87-031(A), dated February 18, 1987. Based on the foregoing, the FAA has determined that the condition described herein is an unsafe condition that may exist or develop on other products of the same type design certificated for operation in the United States.

Therefore, an AD is being issued requiring visual inspection of the aileron balance weight attachment rivets and aileron skin, replacement of loose rivets, and repair of aileron cracks, or replacement of the ailerons on SOCATA Models TB 20 and TB 21 airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption **"ADDRESSES"** at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

SOCATA Groupe AEROSPATIALE: Applies to Models TB 20 and TB 21 (Serial Numbers 275 through 700) airplanes certificated in any category.

Compliance: Required within 50 hours time-in-service (TIS), and each 100 hours thereafter, unless already accomplished.

To prevent structural failure of the aileron, possible flutter, and loss of control, accomplish the following:

(a) Visually inspect the five aileron balance weight attachment rivets for any detectable looseness, and the aileron skin for cracks using the procedures described in paragraph

A. SOCATA TB Service Bulletin (S/B) No. 28, dated December 1986.

(1) If one or more loose rivets, or cracks extending less than 9/16" (15 mm) from the center of the rivet is found, prior to further flight, repair as described in paragraph B of SOCATA TB Aircraft S/B No. 28, dated December 1986.

(2) If a crack 9/16" or longer from the center of the rivet is found, prior to further flight, replace the P/N TB 20.15.001.000 aileron with P/N TB 20.15.001.001 or P/N TB 20.15.001.002 aileron as applicable.

(b) The repetitive inspections specified in this AD are no longer required when the ailerons have been replaced per the actions specified in paragraph (a)(2) above.

(c) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(d) An equivalent means of compliance with this AD may be used if approved by the Manager, Brussels Aircraft Certification Office, FAA, AEU-100, Europe, Africa, and Middle East Office, c/o American Embassy, B-1000 Brussels, Belgium; Telephone 513.38.30.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to SOCATA Groupe AEROSPATIALE, B.P. 38, 65001 Tarbes, France; Telephone 62.93.97.30; or Mr. Bernard H. Veyssiere, Product Support Deputy Manager, U.S., AEROSPATIALE, 2701 Forum Drive, Grand Prairie, Texas, 75053; Telephone (214) 641-3614, or may examine the document(s) referred to herein at FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective June 26, 1987.

Issued in Kansas City, Missouri, on June 11, 1987.

Donald J. Schneider,

Acting Director, Central Region.

[FR Doc. 87-14277 Filed 6-23-87; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-24606; IC-15816; File Nos. S7-11-87, S7-12-87]

Facilitating Shareholder Communications; Miscellaneous Amendments

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Securities and Exchange Commission ("Commission") today announced the adoption of amendments to the shareholder communication rules that defer the application of the proxy processing provisions in Rules 14a-13(a), 14b-2 (a), (c) and (d) and 14c-7(a) with respect to beneficial owners who are employee benefit plan participants with securities held in nominee name by a bank, association or other entity that exercises fiduciary powers ("bank"). The amendments, contained in Rules 14a-13(d), 14b-2(j) and 14c-7(d), will provide temporarily for a mandatory exclusion of plan participants from the bank proxy processing provisions of the shareholder communications rules pending consideration of a range of approaches to the treatment of plan participants under the shareholder communications rules on a permanent basis.

The Commission also is adopting an amendment that changes from three to five business days the time in which a bank is to execute an omnibus proxy and provide notice of that execution to respondent banks. Finally, the Commission is adopting amendments to Rules 14a-1(b) and 14c-1(b) to add a definition of employee benefit plan to the shareholder communications rules, as well as other clarifying and technical amendments to the shareholder communications rules.

EFFECTIVE DATE: These amendments are effective July 1, 1987.

FOR FURTHER INFORMATION CONTACT: Prior to the effective date, Sarah A. Miller or Barbara J. Green (202) 272-2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth St., NW., Washington, DC 20549. After the effective date, contact Cecilia D. Blye, (202) 272-2573, Office of the Chief Counsel, Division of Corporation Finance.

SUPPLEMENTARY INFORMATION: The Commission today announced the adoption of amendments to Rules 14a-1,[1] 14a-13,[2] 14b-1,[3] 14b-2, [4] 14c-1,[5] and 14c-7.[6].

I. Discussion

A. Amendments Deferring Application of Proxy Processing Provisions to Employee Benefit Plan Participants with Securities Held in Nominee Name by a Bank.

On November 25, 1986, the Commission adopted new shareholder communications rules and related amendments [7] to effect the Shareholder Communications Act of 1985.[8] The new rules set forth the obligations of banks in connection with forwarding proxy materials to beneficial owners and facilitating registrants' direct communications with beneficial owners of securities registered in the banks' names. At the time it adopted the new rules, the Commission deferred, until July 1, 1987, the effectiveness of paragraphs (a) through (c) of Rule 14b-2,[9] which set forth the proxy processing obligations of banks and the omnibus proxy system, to give banks sufficient time to establish workable procedures for the implementation of the proxy processing system. Banks' obligations with respect to the direct communications system, however, became effective on December 28, 1986.

While the new rules, as adopted, covered employee benefit plan participants, the Commission indicated that it would consider the application of the shareholder communication rules to employee benefit plans in a separate rulemaking proceeding. On March 27, 1987, the Commission issued a release proposing rules excluding, under certain circumstances, employee benefit plan participants from the proxy processing and direct communications systems at the option of the registrant.[10] The release also set forth a number of alternatives under consideration by the Commission, including mandatory exclusion of plan participants from the proxy processing and direct communications systems.

Of the 21 commentators who submitted comment letters on the rule proposals,[11] 16 commentators favored mandatory exclusion of plan participants from the proxy processing system either on an automatic across-the-board basis or on satisfaction of the prerequisite that the plan have a system for obtaining and forwarding proxy materials to plan participants. Two commentators favored exclusion at the option of the registrant. One commentator opposed, on recordkeeping grounds, any exclusion of plan participants from the proxy processing system. One commentator, the American Bankers Association ("ABA"), suggested an additional approach to excluding plan participants. This commentator recommended an amendment to the proxy processing provisions that would

[1] 17 CFR 240.14a-1.

[2] 17 CFR 240.14a-13.

[3] 17 CFR 240.14b-1.

[4] 17 CFR 240.14b-2.

[5] 17 CFR 240.14c-1.

[6] 17 CFR 240.14c-7.

[7] Release No. 34-23847 (November 25, 1986) [51 FR 44267].

[8] Pub. L. 99-222, 99 Stat. 1737 (1985), amending 15 U.S.C. 78n(b) (1982).

[9] 17 CFR 240.14b-2 (a) through (c).

[10] Release No. 34-24274 (March 27, 1987) [52 FR 11083].

[11] The comment letters are available for public inspection and copying at the Commission's Public Reference Room (*see* File No. S7-11-87).

make registrants solely responsible for ensuring that proxy cards and proxy materials are distributed to participants who hold securities of the registrant in nominee name pursuant to an employee benefit plan that provides for pass-through voting (hereinafter "the ABA approach"). Another commentator, the Department of Labor, stated that it had no objections to the approach suggested by the ABA.

The Commission has determined that the ABA approach should be considered in addition to the proposals made in the March 27, 1987 release. Accordingly, the Commission is publishing today for public comment a further proposal for the treatment of plan participants under the proxy processing rules that reflects the ABA approach.[12]

In view of this further rulemaking proceeding, deferring the application of the bank proxy processing provisions to employee benefit plan participants is appropriate to avoid implementation by banks of procedures to include plan participants in the proxy processing system, which may later prove unnecessary.[13] The amendments being adopted today thus defer imposing the proxy processing obligations of banks with respect to employee benefit plan participants, and the corresponding obligations of registrants, by temporarily excluding such beneficial owners from the proxy processing provisions in Rules 14a–13,[14] 14b–2 (a), (c) and (d) [15] and 14c–7.[16]

Registrants and banks should be award that application of the proxy processing provisions to plan participants is being deferred to afford time for consideration of the full range of approaches for treatment of such beneficial owners.[17] An approach other than mandatory exclusion may be utilized on a permanent basis to achieve the goal of ensuring that voting plan participants, like other security holders, receive proxy materials on a timely basis and in a cost effective manner.[18]

In view of its decision to solicit public comment on the ABA approach to exclusion from the proxy processing provisions, the Commission is soliciting further public comment in the proposing release issued today on the treatment of employee benefit plan participants under the direct communications provisions. The direct communications provisions continue, however, to apply to employee benefit plan participants.[19]

B. Amendments Extending the Time Period for Execution of an Omnibus Proxy from Three to Five Business Days and Other Technical and Clarifying Amendments

On March 27, 1987, the Commission also issued a companion release proposing an amendment to the shareholder communications rules to extend the time period provided in Rule 14b–2(b) from three to five business days. During that period of time, a bank is required to: (1) Execute an omnibus proxy in favor of its respondent banks and forward such proxy to the registrant; and (2) provide notice of that execution to its respondent banks.[20]

Nineteen of the 20 commentators that responded to the Commission's request for comment on this proposal either expressly favored, or stated that they did not object to, the extension from three to five business days.[21] Several bank commentators stated that they favored the extension of time because it would ease compliance difficulties due to time constraints in executing omnibus proxies and notifying respondent banks of such execution. Although some other commentators suggested that the extension of time for execution of omnibus proxies by banks was not necessary because banks will know their securities positions as of the record date based on their own accounting systems, these commentators supported the extension because it would alleviate the burdens on compliance by intermediaries during the proxy season. The one commentator that opposed the extension stated that an expanded five business day time frame could increase the actual time frame for execution of omnibus proxies to nine calendar days (considering holidays and weekends). This commentator stated, without further explanation, that this would add to the registrant's burden and expressed the view that banks have sufficient lead time prior to the record date to plan their work schedule so that an omnibus proxy could be executed within three business days.

As commentators suggested, the extension from three to five business days should facilitate voting of securities held in nominee name during the proxy season by alleviating burdens on intermediaries. Accordingly, the Commission is adopting the amendment as proposed.

In addition, a definition of employee benefit plan is being adopted as proposed in the March 27, 1987 release relating to employee benefits plans.[22] This definition is the same as that used under the Securities Act of 1933.[23]

In the March 27, 1987 companion release, the Commission also proposed certain clarifying and technical changes to the shareholder communications

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[12] Release No. 34–24607. Like the proposals published in the Commission's March 27, 1987 release, this further proposal will apply to broker and dealer ("broker"), as well as bank, proxy processing provisions.

[13] The proxy processing obligations of brokers, which have been in place since 1977, Release No. 34–13719 (July 5, 1977) [42 FR 35955], and corresponding registrant obligations, will remain in place with respect to employee benefit plan participants as well as other beneficial owners.

[14] *See* Rule 14a–13(d), 17 CFR 240.14a–13(d).

[15] *See* Rule 14b–2(j), 17 CFR 240.14b–2(j).

[16] *See* Rule 14c–7(d), 17 CFR 240.14c–7(d).

The Commission is not, however, deferring, application of the omnibus proxy system to employee benefit plan participants. The omnibus proxy provision, contained in paragraph (b) of Rule 14b–2, 17 CFR 240.14b–2(b), is being retained to ensure that legal voting authority reaches the specific respondent bank which holds securities on behalf of plan participants.

[17] Of course, the temporary deferral of the proxy processing provisions does not relieve fiduciaries of their responsibilities under the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. 1001, *et seq.* Under section 404(a)(1)(D) of ERISA, 29 U.S.C. 1104(a)(1)(D), fiduciaries of employee benefit plans are generally obligated to discharge their duties in accordance with the documents and instruments governing the plan insofar as they are consistent with the requirements of ERISA. In this respect, under sections 403 and 404(a) of ERISA, 29 U.S.C. 1103 and 1104(a), every plan fiduciary also has an obligation to discharge his duties for the exclusive benefit, and solely in the interest, of plan participants and beneficiaries. A fiduciary would be required to adhere strictly to these standards in implementing any plan provisions relating to proxy materials. The Department of Labor has indicated that, in the case of a plan which permits participants to direct plan responses to tender offers, plan trustees would be relieved of liability for losses resulting from participants' decisions only if, among other things, they assure that participants are provided information necessary to make independent decisions. *See* letter to John Welch dated April 30, 1984, reprinted in BNA Pens. Rptr., vol. 11, no. 19, at 633 (May 7, 1984). The Department of Labor has informed the staff of the Commission that, in its view, the duties of plan fiduciaries under ERISA with respect to pass-through voting of securities are similar to the duties of plan fiduciaries with respect to pass-through of tender offers as articulated in the Welch letter. Thus, in discharging their duties under ERISA, plan trustees may be obliged to take steps to disseminate materials to participants in addition to any materials required to be distributed under the plan.

[18] Because the deferral is temporary in nature, banks should consider continuing to retain in their records information concerning employee benefit plans that may relate to the deferred bank proxy processing provisions.

[19] Effective July 1, 1987, registrants will be required to request lists of beneficial owners' names, addresses and securities positions from all brokers and all banks.

[20] Release No. 34–24275 (March 27, 1987) [52 FR 11089].

[21] The comment letters are available for public inspection and copying at the Commission's Public Reference Room (*see* File No. S7–12–87).

[22] *See* Rules 14a–1(b) and 14c–1(b), 17 CFR 240.14a–1(b) and 14c–1(b). The proposing release issued today solicits comments on an amendment to this definition.

[23] 15 U.S.C. 77a, *et seq.* *See* Rule 405, 17 CFR 230.405.

rules. The amendments would clarify that a registrant's obligations in connection with respondent banks apply only to those respondent banks that hold the registrant's securities on behalf of beneficial owners and that the corresponding obligations of banks would apply only to those banks that hold the registrant's securities on behalf of beneficial owners. Additionally, the amendments would make explicit that a registrant must inquire of each record holder whether it holds the registrant's securities on behalf of any respondent bank and, if so, the name and address of each such respondent bank. All commentators who provided comment on these proposals supported them. Accordingly, the Commission is adopting the clarifying and technical amendments as proposed.[24]

II. Cost-Benefit Analysis

The Commission requested commentators to provide views and data as to the costs and benefits associated with the proposed amendment to the omnibus provision in paragraph (b) of Rule 14b–2. In the proposing release, the Commission noted that, by lengthening the time for execution of omnibus proxies by two business days, it intended to help to ensure the effectiveness of the omnibus proxy approach, an approach that is designed to provide a cost-effective and efficient means to ensure that proxies are executed by the appropriately authorized parties.

Three bank commentators expressed views on the costs associated with the proposed amendment. One of these noted that the extension from three to five business days may be required in order to comply with the rule in a cost effective manner. Another believed the extension would provide a more workable and cost effective process. The third stated that the extension ultimately would allow for better control over staffing expenses and lower costs for customers.

With regard to the deferral of the application of the bank proxy processing provisions to employee benefit plan participants, the deferral is appropriate to avoid implementation by banks of procedures to include plan participants in the proxy processing system, which may later prove unnecessary.

III. Statutory Basis

These amendments are being adopted pursuant to sections 12, 14 and 23(a) of the Exchange Act.[25] The Commission finds it appropriate and with good cause under 5 U.S.C. 553(d) to make the amendments to Rules 14a–1, 14a–13, 14b–1, 14b–2, 14c–1 and 14c–7 effective July 1, 1987, less than 30 days after publication in the **Federal Register**. The amendments deferring application of the bank proxy processing system to employee benefit plans recognize a temporary exemption. The remainder of the amendments are technical or clarifying in nature.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities, Banks, Associations.

IV. Text of Amendments

In accordance with the foregoing Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 continues to read, in part, as follows:
(Citations before * * * indicate general rulemaking authority).

Authority: Sec. 23, 48 Stat. 901, as amended; 15 U.S.C. 78w * * * Sections 240.14a–1, 240.14a–13, 240.14b–1, 240.14b–2, 240.14c–1 and 240.14c–7 also issued under Sections 12, 15 U.S.C. 78*l*, and 14, Pub. L. 99–222, 99 Stat. 1737, 15 U.S.C. 78n.

2. Section by 240.14a–1 is amended by redesignating current paragraphs (b) through (j) as paragraphs (c) through (k) and adding new paragraph (b) to § 240.14a–1 to read as follows:

§ 240.14a–1. Definitions.

* * * * *

(b) *Employee benefit plan.* For purposes of §§ 240.14a–13, 240.14b–1 and 240.14b–2, the term "employee benefit plan" means any purchase, savings, option, bonus, appreciation, profit sharing, thrift, incentive, pension or similar plan solely for employees, directors, trustees or officers.

* * * * *

3. Paragraphs (a)(1)(B), (a)(1)(ii)(A), (a)(2), Note 1 to paragraph (a), and paragraph (b)(3) of § 240.14a–13, published December 9, 1986 (51 FR 44267) to be effective July 1, 1987, are revised, and new paragraphs (a)(1)(i)(D) and (d) are added as follows:

§ 240.14a–13 Obligations of registrants in communicating with beneficial owners.

(a) * * *

(1) * * *

(i) * * *

(B) In the case of an annual (or special meeting in lieu of the annual) meeting, or written consents in lieu of such meeting, at which directors are to be elected, the number of copies of the annual report to secruity holders necessary to supply such report to beneficial owners to whom such reports are to be distributed by such record holder or its nominee and not by the registrant;

* * * * *

(D) Whether it holds the registrant's securities on behalf of any respondent bank and, if so, the name and address of each such respondent bank; and

(ii) * * *

(A) Whether the registrant, pursuant to paragraph (c) of this section, intends to distribute the annual report to security holders to beneficial owners of its securities whose names, addresses and securities positions are disclosed pursuant to §§ 240.14b–1(c) and 240.14b–2(e) (2) and (3); and

* * * * *

(2) Upon receipt of a record holder's or respondent bank's response indicating, pursuant to § 240.14b–2(a)(1), the names and addresses of its respondent banks, within one business day after the date such response is received, make an inquiry of and give notification to each such respondent bank in the same manner required by paragraph (a) (1) of this section.

* * * * *

Note 1 to paragraph (a).—If the registrant's list of security holders indicates that some of its securities are registered in the name of a clearing agency registered pursuant to section 17A of the Act (*e.g.*, "Cede & Co.," nominee for the Depository Trust Company), the registrant shall make appropriate inquiry of the clearing agency and thereafter of the participants in such clearing agency who may hold on behalf of a beneficial owner or respondent bank, and shall comply with the above paragraph with respect to any such participant (*see* § 240.14a–1(h)).

* * * * *

(b) * * *

(3) Make such request to the following persons that hold the registrant's securities on behalf of beneficial owners: all brokers, dealers, banks, associations and other entities that exercise fiduciary powers);

* * * * *

(d) The inquiry required by paragraphs (a)(1) and (a)(2) of this section shall not cover beneficial owners who are employee benefit plan participants or beneficiaries with respect to securities of the registrant held in nominee name by a bank,

[24] Minor technical revisions, such as the correction of typographical errors, also are being made.

[25] 15 U.S.C. 78*l*, 78n and 78w(a).

association or other entity that exercises fiduciary powers pursuant to such plan.

4. By revising the introductory text of paragraph (a) to § 240.14b–1 to read as follows:

§ 240.14b–1 Obligation of registered brokers and dealers in connection with the prompt forwarding of certain communications to beneficial owners.

* * * * *

(a) Respond, by first class mail or other equally prompt means, directly to the registrant no later than seven business days after the date it receives an inquiry made in accordance with § 240.14a–13(a) by indicating, by means of a search card or otherwise: * * *

* * * * *

5. Paragraph (a)(1) and the introductory text to paragraph (b) of § 240.14b–2, published December 9, 1986 [51 FR 44267] to be effective July 1, 1987, are revised; paragraph (c)(1)(i)(b) is correctly designated as (c)(1)(i)(B); paragraph (e)(1), the introductory text to paragraph (h) and Note 2 to paragraph (i) are revised, and new paragraph (j) is added as follows:

§ 240.14b–2 Obligation of banks, associations and other entities that exercise fiduciary powers in connection with the prompt forwarding of certain communications to beneficial owners.

* * * * *

(a)(1) Shall respond, by first class mail or other equally prompt means, directly to the registrant no later than one business day after the date it receives an inquiry made in accordance with § 240.14a–13(a) by indicating the name and address of each of its respondent banks that holds the registrant's securities on behalf of beneficial owners, if any, and

* * * * *

(b) Within five business days after the record date, shall: * * *

* * * * *

(e) Shall: (1) respond, by first class mail or other equally prompt means, directly to the registrant no later than one business day after the date it receives an inquiry made in accordance with § 240.14a–13(b)(1) by indicating the name and address of each of its respondent banks that holds the registrant's securities on behalf of beneficial owners, if any;

* * * * *

(h) For customer accounts opened on or before December 28, 1986, unless it has made a good faith effort to obtain affirmative consent to disclosure of beneficial owner information pursuant to paragraph (e)(2) of this section, shall provide such information as to beneficial owners who do not object to disclosure of such information. A good faith effort to obtain affirmative consent to disclosure of beneficial owner information shall include, but shall not be limited to, making an inquiry: * * *

* * * * *

Note 2 to paragraph (i).—If more than one person shares voting power or if the instrument creating that voting power provides that such power shall be exercised by different persons depending on the nature of the corporate action involved, all persons entitled to exercise such power shall be deemed beneficial owners: *Provided, however,* that only one such beneficial owner need be designated among the beneficial owners to receive proxies or requests for voting instructions, other proxy soliciting material and/or annual reports to security holders, if the person so designated assumes the obligation to disseminate, in a timely manner, such materials to the other beneficial owners.

* * * * *

(j) A bank, association or other entity that exercises fiduciary powers shall not—

(1) Include in its response pursuant to paragraph (a) of this section:

(2) Forward proxy cards or requests for voting instructions, proxy soliciting material or annual reports to security holders pursuant to paragraph (c) of this section to; or

(3) Comply with any alternative to paragraph (c) of this section approved by the Commission pursuant to paragraph (d) of this section with regard to: beneficial owners who are employee benefit plan participants or beneficiaries with respect to securities held in nominee name pursuant to such plan.

6. By redesignating current paragraphs (b) through (i) as paragraphs (c) through (j) and adding new paragraph (b) to § 240.14c–1 to read as follows:

§ 240.14c–1 Definitions.

* * * * *

(b) *Employee benefit plan.* For purposes of § 240.14c–7, the term "employee benefit plan" means any purchase, savings, option, bonus, appreciation, profit sharing, thrift, incentive, pension or similar plan solely for employees, directors, trustees or officers.

* * * * *

7. Paragraphs (a)(1)(i)(A), Note 1 to paragraph (a), paragraph (b)(3) and paragraph (c) of § 240.14c–7, published December 9, 1986 [51 FR 44267] to be effective July 1, 1987, are revised, and new paragraphs (a)(1)(i)(C) and (d) are added as follows:

§ 240.14c–7 Providing copies of material for certain beneficial owners.

* * * * *

(a) * * *

(1) * * *

(i) * * *

(A) whether other persons are the beneficial owners of such securities and, if so, the number of copies of the information statement necessary to supply such material to such beneficial owners;

* * * * *

(C) whether it holds the registrant's securities on behalf of any respondent bank and, if so, the name and address of each such respondent bank; and * * *

* * * * *

Note 1 to paragraph (a).—If the registrant's list of security holders indicates that some of its securities are registered in the name of a clearing agency registered pursuant to section 17A of the Act (*e.g.*, "Cede & Co.," nominee for the Depository Trust Company), the registrants shall make appropriate inquiry of the clearing agency and thereafter of the participants in such clearing agency who may hold on behalf of a beneficial owner or respondent bank, and shall comply with the above paragraph with respect to any such participant (*see* § 240.14c–1 (h)).

* * * * *

(b) * * *

(3) Make such request to the following persons that hold the registrant's securities on behalf of beneficial owners: all brokers, dealers, banks, associations and other entities that exercise fiduciary powers;

* * * * *

(c) A registrant, as its option, may mail its annual report to security holders to the beneficial owners whose identifying information is provided by record holders and respondent banks, pursuant to § 240.14b–1[c) and § 240.14b–2(e) (2) and (3), provided that such registrant notifies the record holders and respondent banks at the time it makes the inquiry required by paragraph (a) of this section that the registrant will mail the annual report to security holders to the beneficial owners so identified.

(d) The inquiry required by paragraphs (a)(1) and (a)(2) of this section shall not cover beneficial owners who are employee benefit plan participants or beneficiaries with respect to securities of the registrant held in nominee name by a bank, association or other entity that exercises fiduciary powers pursuant to such plan.

By the Commission.

Jonathan G. Katz,

Secretary.

June 18, 1987.

[FR Doc. 87–14328 Filed 6–23–87; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 154, 375 and 382

[Docket No. RM87-3-001; Order No. 472-A]

Annual Charges Under the Omnibus Budget Reconciliation Act of 1986

Issued: June 17, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order clarifying final rule.

SUMMARY: The Federal Energy Regulatory Commission clarifies its intent in its final rule regarding "Annual Charges Under the Omnibus Budget Reconciliation Act of 1986, 52 FR 21263 (June 5, 1987), that the only natural gas storage volumes to be considered in assessing annual charges against any reporting pipeline will be those storage volumes not already included in the reporting pipeline's sales and transportation volumes.

EFFECTIVE DATE: June 17, 1987.

FOR FURTHER INFORMATION CONTACT: Roland M. Frye, Jr., Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, NE., Washington, DC 20426 (202) 357-8315.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is clarifying its intent in the final rule issued in this docket on May 29, 1987,[1] that the only natural gas storage volumes to be considered in assessing annual charges against any reporting pipeline will be those storage volumes not already included in the reporting pipeline's sales and transportation volumes.

II. Background

In the final rule, the Commission stated that it would base its annual charges assessments against interstate natural gas pipelines on the volumes of gas sold and transported by those pipelines. The Commission defined such volumes as the sum of the volumes reported by all natural gas pipelines on Annual Report Form No. 2, page 521, lines 42 (Total Sales), 46 (Total, Gas Transported or Compressed for Others), 50 (Natural Gas Delivered to Underground Storage), and 51 (Natural Gas Delivered to LNG Storage); Annual Report Form No. 2-A, page 18, line 11 plus applicable transportation volumes in lines 13-15; and Annual Report Form No. 14, line 13 of Schedule I (Natural Gas) and line 13 of Schedule II (LNG).[2]

III. Discussion

It has come to the Commission's attention that some of the gas reported as storage volumes in natural gas pipeline companies' annual report forms for calendar year 1986 was also reported as sales and transportation volumes on the same forms, and that therefore, under the final rule's methodology for computing annual charges, any volumes of gas stored and either transported or sold by the same pipeline would be subject to double counting. The Commission did not intend this result, and therefore clarifies that it intends to assess annual charges based on only (1) sales, transportation and compression volumes, and (2) storage volumes of gas not also reported by the storing pipeline in its sales, transportation and compression volumes.

However, the Commission's Form Nos. 2 and 2-A do not provide for the separation of the volumes included in these two categories.[3] Therefore, the Commission will give natural gas pipelines the opportunity to provide such separated data. By close of business on June 30, 1987, any interstate natural gas pipeline may provide the Commission with a sworn statement which separates its reported storage volumes into categories (1) and (2) as described in the immediately preceding paragraph.[4] In its annual charge computations, the Commission will include only those storage volumes included in category (2). A company that chooses not to file the data requested in this order will be assessed annual charges based on its entire storage volumes, *i.e.*, the volumes included in both categories (1) and (2). In future years, the Commission will require such data in its Form Nos. 2 and 2-A. To this end, the Commission is amending its instructions to these forms to require that every pipeline provide such data as part of a footnote on page 520 of Form No. 2 or page 21 of Form No. 2-A.[5]

IV. Paperwork Reduction Act Statement

The Paperwork Reduction Act [6] and the Office of Management and Budget (OMB) regulations [7] require that OMB approve certain information collection requirements imposed by agency rule. On June 17, 1987, OMB approved for 70 days supplemental reporting requirements and revisions to FERC Form Nos. 2 and 2-A under OMB Control Number 1902-0028 and 1902-0030, respectively.

V. Effective Date

In the final rule, the Commission intended that only contract storage volumes be included in the Commission's computation of natural gas pipelines' annual charges. However, because this order contains a new reporting requirement and revisions to Form Nos. 2 and 2-A, this order becomes effective on June 17, 1987, the date on which OMB issued a 70-day approval of that requirement and those revisions.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-14327 Filed 6-23-87; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[TD ATF-254; Re: Notice No. 439 and 592]

Revision of the El Dorado Viticultural Area Boundary, California

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF); Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: ATF is revising the boundary of the El Dorado viticultural area to include a vineyard which was unintentionally omitted from the original petition which ATF adopted in T.D.

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[1] "Annual Charges Under the Omnibus Budget Reconciliation Act of 1986," Final Rule, Order No. 472, 52 FR 21263 (June 5, 1987).

[2] 52 FR at 21276.

[3] Because no importers currently store natural gas under contract, the Commission does not now need to provide for the separation of storage volume data reported in Form No. 14.

[4] To facilitate such natural gas pipelines' timely filing of this data, the Commission is serving a copy of this order on each pipeline which is listed in Appendix B of the final rule and which reported storage volumes in its 1986 annual report. This service is by United States Mail, first class, on the date of issuance of this order.

[5] The instructions which Order No. 472 added to these pages (52 FR 21274, n. 151 and 21297-21300 (Appendices C and D)) are supplemented with the following language:

Also indicate by footnote the volumes of gas which are stored by the reporting pipeline and not also reported as sales, transportation and compression volumes by the reporting pipeline, and the volumes of gas which are stored by the reporting pipeline and also reported as sales, transportation or compression volumes by the reporting pipeline.

[6] 44 U.S.C. 3501-3520 (1982).

[7] 5 C.F.R. Part 1320 (1987).

ATF-152 (48 FR 46518). This revision is based on a petition submitted by Mr. A.G. Boissevain, President, El Dorado Wine Growers Association, Camino, California. The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers better identify wines they purchase. The use of viticultural area appellations of origin will also help wineries distinguish their products from wines made in other areas.

EFFECTIVE DATE: This final rule is effective July 24, 1987.

FOR FURTHER INFORMATION CONTACT: James A. Hunt, FAA, Wine and Beer Branch, Ariel Rios Federal Building, 1200 Pennsylvania Avenue NW., Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

The El Dorado Wine Grape Growers Association in Camino, California, petitioned ATF for the establishment of an American viticultural area to be named "El Dorado." The El Dorado viticultural area is located within El Dorado County, east of Sacramento, California. In response to this petition, ATF published a notice of proposed rulemaking, Notice No. 439 (47 FR 55954), in the **Federal Register** on December 14, 1982, proposing the establishment of El Dorado as a viticultural area.

On October 13, 1983, ATF published T.D. ATF-152 (48 FR 46518) establishing the El Dorado viticultural area. Mr. A.G. Boissevain, President, El Dorado Wine Grape Growers Association, submitted a petition to include a vineyard just outside of the western boundary of the El Dorado viticultural area. The vineyard was unintentionally omitted when the boundaries were established along Range and Township lines rather than along a more complicated contour line of 1200 foot elevation. Mr. Boissevain stated that the petitioned for area has the same name identification, topography, soil types, amount of rainfall, elevation and temperatures as found in the El Dorado viticultural area and would be distinguished from the surrounding area.

Notice of Proposed Rulemaking

In response to Mr. Boissevain's second petition, ATF published a notice of proposed rulemaking, Notice No. 592 (51 FR 19853), proposing a revision of the El Dorado viticultural area boundary. No comments were received.

Conclusion

After considering the evidence presented by the petitioner, ATF determined that it would be proper to extend the El Dorado viticultural area. Accordingly, this document prescribes a revised boundary for the El Dorado viticultural area.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have a significant secondary or incidental effect on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Compliance With Executive Order 12291

In compliance with Executive Order 12291, 46 FR 13193 (1981), ATF has determined that this final rule is not a "major rule" since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, and Wine.

Drafting Information

The principal author of this document is James A. Hunt, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas is amended as follows:

PART 9—[AMENDED]

Paragraph 1. The authority citation for Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. Section 9.61 is amended by revising paragraph (c)(12), redesignating existing paragraphs (c)(13) through (c)(15) as (c)(17) through (c)(19) respectively, and adding new paragraphs (c)(13) through (c)(16) to read as follows:

§ 9.61 El Dorado.

* * * * *

(c) * * *

(12) Thence north along the range line to its intersection with U.S. Route 50;

(13) Thence west along U.S. Route 50 to its intersection with Cameron Park Drive;

(14) Thence north along Cameron Park Drive to its intersection with Green Valley Road;

(15) Thence east along Green Valley Road to its intersection with range line R.10 E/ R.9 E;

(16) Thence north along the range line to its intersection with the township line T.10 N./ T.11 N;

* * * * *

Signed: May 29, 1987.

Stephen E. Higgins,

Director.

Approved: June 4, 1987.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Trade and Tariff Enforcement).

[FR Doc. 87-14297 Filed 6-23-87; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[T.D. ATF-255; Re: Notice No. 399 and No. 434]

Revision of the Monticello Viticultural Area Boundary, Virginia

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, Final rule.

SUMMARY: ATF is revising the boundary of the Monticello viticultural area to include vineyards which were omitted from the original petition which ATF adopted in T.D. ATF-164 (49 FR 2757). This rule is based on a petition submitted by Edward W. Schwab, Autumn Hill Vineyards, located in Stanardsville, Virginia. The

establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers better identify wines they purchase. The use of viticultural area appellations of origin will also help wineries distinguish their products from wines made in other areas.

EFFECTIVE DATE: This final rule is effective July 24, 1987.

FOR FURTHER INFORMATION CONTACT: James A. Hunt, FAA, Wine and Beer Branch, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226 (202–566–7626).

SUPPLEMENTARY INFORMATION:

Background

Six wine grape growers in the Charlottesville area of Virginia first petitioned ATF to establish a viticultural area to be known as "Monticello." In response to the petition, ATF published a notice of proposed rulemaking, Notice No. 399 (46 FR 59274), on December 4, 1981, to establish a viticultural area in the Charlottesille, Virginia, area to be known as "Monticello." During the comment period The Jefferson Wine Grape Growers Society petitioned for an enlargement of the Monticello viticultural area boundary. ATF published an amended notice of proposed rulemaking, Notice No. 434 (47 FR 52200), on November 19, 1982. All the comments received favored the enlarged boundary for the Monticello viticultural area.

On January 23, 1984, ATF published T.D. ATF–164 (49 FR 2757) establishing the Monticello viticultural area. On November 9, 1984, a petition was received from Mr. Edward W. Schwab, Managing Partner, Autumn Hill Vineyards, to include Greene County in the Monticello viticultural area. Mr. Schwab said he became aware of the Monticello viticultural area after it was established and he was not aware of the rulemaking process that had taken place.

Greene County is a small county which borders the northern boundary of the Monticello viticultural area. Mr. Schwab submitted a statement and evidence from the Virginia Cooperative Extension Service Agriculture Extension Agent that the petitioned for area has essentially the same topography, soil types, amount of rainfall, elevation and temperatures as found in the bordering Monticello viticultural area. Mr. Schwab amended his petition to exclude a mountainous area in the western part of Green County so that the revised area would be even more similar to the existing Monticello viticultural area.

The Monticello viticultural area is approximately 1250 square miles and therefore, extends many miles from its namesake and home of Thomas Jefferson in Charlottesville, Virginia. The evidence submitted during the earlier rulemaking process established that the Monticello name extends throughout Central Virginia, to include Albemarle, Orange, Nelson and Greene Counties, because of Thomas Jefferson's dominant influence in the region. Historical publications have numerous references to Jefferson's leasing farm land throughout Central Virginia to expand his Monticello acreage. Other references list Monticello as the primary source of crop experimentation data and planting material (including grapevines) used to start new farms in Central Virginia.

One current example which shows that the name identification extended several miles to the north of Monticello to Orange and Greene Counties is a mansion similar in appearance to Monticello which Jefferson designed for his friend, James Barbour. The mansion burned in 1884, but all the brick structure and columns remain making the structure easily identified with Monticello. This mansion, the Barboursville Ruins, is now a historical landmark and tourist attraction. The eastern boundary of the revised viticultural area is near the Barboursville Ruins.

Comments

No additional information was received during the comment period. A copy of the petition to revise the boundary and supporting evidence is available for inspection during normal business hours at the following location: ATF Reading Room, Rm. 4407, Office of Public Affairs and Disclosure, 12th and Pennsylvania Ave. NW., Washington, DC.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have a significant secondary or incidental effect on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Compliance With Executive Order 12291

In compliance with Executive Order 12291 (46 FR 13193 (1981)), ATF has determined that this final rule is not a "major rule" since it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Drafting Information

The principal author of this document is James A. Hunt, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas is amended as follows:

PART 9—[AMENDED]

Paragraph 1. The authority citation for Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. Section 9.48(c) is revised to read as follows:

§ 9.48 Monticello.

* * * * *

(c) *Boundaries.* (1) From Norwood, Virginia, following the Tye River west and northwest until it intersects with the eastern boundary of the George Washington National Forest;

(2) Following this boundary northeast to Virginia Rt. 664;

(3) Then west following Rt. 664 to its intersection with the Nelson County line;

(4) Then northeast along the Nelson County line to its intersection with the Albemarle County line at Jarman Gap;

(5) From this point continuing northeast along the eastern boundary of the Shenandoah National Park to its intersection with the northern Albemarle County line;

(6) Continuing northeast along the Greene County line to its intersection with Virginia Rt. 33;

(7) Follow Virginia Rt. 33 east to the intersection of Virginia Rt. 230 at Stanardsville;

(8) Follow Virginia Rt. 230 north to the Greene County line (the Conway River);

(9) Following the Greene County line (Conway River which becomes the Rapidan River) southeast to its intersection with the Orange County line;

(10) Following the Orange County line (Rapidan River) east and northeast to its confluence with the Mountain Run River;

(11) Then following the Mountain Run River southwest to its intersection with Virginia Rt. 20;

(12) Continuing southwest along Rt. 20 to the corporate limits of the town of Orange;

(13) Following southwest the corporate limit line to its intersection with U.S. Rt. 15;

(14) Continuing southwest on Rt. 15 to its intersection with Virginia Rt. 231 in the town of Gordonsville;

(15) Then southwest along Rt. 231 to its intersection with the Albemarle County line.

(16) Continuing southwest along the county line to its intersection with the James River;

(17) Then following the James River to its confluence with the Tye River at Norwood, Virginia, the beginning point.

Signed: May 22, 1987.

W.T. Drake,

Acting Director

Approved: June 1, 1987.

John P. Simpson,

Deputy Assistant Secretary, Regulatory, Trade and Tariff Enforcement.

[FR Doc. 87-14296 Filed 6-23-87; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 4

[CGD 87-040]

OMB Control Numbers

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), requires generally that all regulations which contain recordkeeping or reporting requirements must be approved by the Director, Office of Management and Budget (OMB). Once approved, these regulations are assigned an OMB Control Number. OMB Control Numbers for regulations within certain parts of Title 33, Code of Federal Regulations are displayed in a table appearing at 33 CFR 4.02. This document updates the table to display OMB Control Numbers assigned to certain regulations within Title 33.

EFFECTIVE DATE: June 24, 1987.

FOR FURTHER INFORMATION CONTACT: LT Sandra Sylvester, (202) 267-1534.

SUPPLEMENTARY INFORMATION: This final rule was not preceded by a notice of proposed rulemaking and is being made effective in less than 30 days. This rule merely displays existing OMB Control Numbers pertaining to specific Coast Guard regulations for the public's information. Therefore, the Coast Guard has determined that notice and comment procedures are unnecessary under the Administrative Procedure Act [5 U.S.C. 553(b)(B)]. Since this rule has no substantive effect, good cause exists to make this rule effective in less than thirty days under 5 U.S.C. 553(d)(3).

Drafting Information

This rule was drafted by LT Sandra R. Sylvester, Office of Chief Counsel, Regulations and Administrative Law Division.

Regulatory Evaluation

This regulation is considered to be non-major under Executive Order 12291, and non-significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. This rule merely displays existing OMB Control Numbers and imposes no new substantive requirements. Since the impact of this rule is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 4

Reporting and recordkeeping requirements.

PART 4—[AMENDED]

In consideration of the foregoing, Part 4 of Chapter I, Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 4 continues to read as follows:

Authority: 44 U.S.C. 3507; 49 CFR 1.45(a).

2. The table in § 4.02(b) is amended by adding new entries in numerical order and revising the entry for Part 165 to read as follows:

§ 4.02 Display.

* * * * *

(b) Display

* * * * *

Part 127	2115-0552

* * * * *

Section 140.15	2115-0553

* * * * *

Part 160	2115-0540
Part 161	2115-0540

* * * * *

Part 164	2115-0540
Part 165	2115-0540

* * * * *

Dated: June 11, 1987.

J.E. Vorbach,

Rear Admiral, U.S. Coast Guard, Chairman, Marine Safety Council.

[FR Doc. 87-14107 Filed 6-23-87; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 4E3112/R892; FRL-3221-5]

Pesticide Tolerance for 4-Amino-6-(1,1-Dimethylethyl)-3-(Methylthio)-1,2,4-Triazin-5(4H)-One

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the herbicide (4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4*H*)-one) (referred to in the preamble as metribuzin), and its triazinone metabolites in or on the raw agricultural commodity carrots. This regulation to establish a maximum permissible level for residues of the herbicide in or on carrots was requested in a petition by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on June 24, 1987.

ADDRESS: Written objections, identified by the document control number, [PP 4E3112/R892], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:
By mail: Donald R. Stubbs, Emergency Response and Minor Use Section (TS–767C), Registration Division, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460
Office location and telephone number: Room 716H, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1806).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of April 23, 1987 (52 FR 13478), which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 4E3112 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project, and the Agricultural Experiment Stations of Delaware, Illinois, Michigan, New Jersey, Texas, Washington and the U.S. Department of Agriculture.

The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the herbicide metribuzin and its triazinone metabolites in or on the raw agricultural commodity carrots at 0.3 part per million (ppm).

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 through 612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 9, 1987.

Douglas D. Campt,
Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.332 is amended by adding, and alphabetically inserting, the raw agricultural commodity carrots to read as follows:

§ 180.332 4-Amino-6-(1,1-dimethylethyl)-3-(methylthio) -1,2,4-triazin-5(4H)-one; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Carrots	0.3
* * * * *	

[FR Doc. 87–14229 Filed 6–23–87; 8:45 am]
BILLING CODE 6560–50–M

40 CFR Part 180

[PP4F3007, 4E3026, 4F3074/R898; FRL–3222–8]

Pesticide Tolerances for 1-[[2-(2,4-Dichlorophenyl)-4-Propyl-1,3-Dioxolan-2-yl]Methyl]-1-H-1,2,4-Triazole and its Metabolites

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the fungicide 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1-*H*-1,2,4-triazole and its metabolites determined as 2,4-dichlorobenzoic acid, in or on certain raw agricultural commodities. This regulation, to establish the maximum permissible level for residues of the fungicide in or on the commodities, was requested by Ciba-Geigy Corp.

EFFECTIVE DATE: June 16, 1987.

ADDRESS: Written objections, identified by the document control number, [PP4F3007, 4E3026, 4F3074/R898], may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail:
Lois A. Rossi, Product Manager (PM) 21, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.
Office location and telephone number: Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–1900.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of January 11, 1984 (49 FR 1423), which announced that Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419, had submitted a pesticide petition (4F3007) to EPA proposing that 40 CFR Part 180 be amended by establishing tolerances for the fungicide 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1*H*-1,2,4-triazole and its metabolites determined as 2,4-dichlorobenzoic acid and expressed as parent compound, in or on the commodity pecans at 0.1 part per million.

EPA announced in the **Federal Register** of February 27, 1984 (49 FR 7150) that Ciba-Geigy Corp. filed PP 4E3026 proposing a tolerance for residues of the fungicide in or on bananas at 0.1 ppm. This petition was subsequently amended in the **Federal Register** of July 9, 1986 (51 FR 24893), by increasing the tolerance level to 0.2 ppm.

EPA announced in the **Federal Register** of May 23, 1984 (49 FR 21795) that Ciba-Geigy Corp. filed PP 4F3074 proposing tolerances for residues of the fungicide in or on the following commodities: Grain of barley, rye and wheat at 0.1 ppm; kidney and liver of cattle, goats, hogs, horses, poultry, and sheep at 0.1 ppm; rice (grain) at 0.1 ppm; rice (straw) at 3.0 ppm; straw of barley, rye, and wheat at 1.5 ppm. This petition was subsequently amended in the **Federal Register** of May 19, 1987 (52 FR 18738), by retaining the previously proposed tolerances for the grains and their straws while increasing the tolerance level for kidney and liver of cattle, goats, hogs, horses, poultry, and sheep to 0.2 ppm. Additional tolerances were proposed for residues of the fungicide for the following commodities: Milk at 0.05 ppm; fat, meat and meat by-products (except kidney and liver) of

cattle, goats, hogs, horses, poultry, and sheep at 0.1 ppm; and eggs at 0.1 ppm.

The data submitted in the petitions and other relevant material have been evaluated. The data considered include:

1. Plant and animal metabolism studies.
2. Residue data for crops and livestock commodities.
3. Two enforcement methodologies and a multiresidue method of analysis.
4. A rat oral lethal dose (LD_{50}) with an LD_{50} of 1,517 milligrams/kilogram (mg/kg) of body weight.
5. A 90-day rat feeding study with a no-observed-effect level (NOEL) of 12 mg/kg/day.
6. A 90-day dog feeding study with a NOEL of 1.25 mg/kg/day.
7. A rabbit teratology study with no maternal toxicity or developmental toxicity up to and including 180 mg/kg (highest dose).
8. A rat teratology study with a maternal toxicity NOEL of 100 mg/kg/day and no developmental toxicity up to and including 300 mg/kg/day (highest dose).
9. A two-generation rat reproduction study with a reproductive NOEL of 125 mg/kg/day (highest dose) and a developmental NOEL of 25 mg/kg/day.
10. A 1-year dog feeding study with a NOEL of 1.9 mg/kg/day.
11. A 2-year rat chronic feeding/oncogenicity study with a NOEL of 5 mg/kg/day with no oncogenic potential under the conditions of the study up to and including approximately 250 mg/kg, the highest dose tested.
12. A 2-year mouse chronic feeding/oncogenicity study with a NOEL of 15 mg/kg/day and with a statistically significant increase in combined adenomas and carcinomas of the liver in male mice at approximately 375 mg/kg, the highest dose tested.
13. Ames test with and without activation, negative.
14. A mouse dominant lethal assay, negative.
15. Chinese hamster nucleus anomaly, negative.
16. Cell transformation assay, negative.

The Agency carried out a weight-of-the-evidence review of all relevant data and concluded that the fungicide is a Category C oncogen (possible human carcinogen with limited evidence of carcinogenicity in animals in the absence of human data). This conclusion was based on a determination that there was evidence of oncogenicity in only a single species and sex. There was a statistically significant increase in combined adenomas and carcinomas of the liver in male mice at the highest dose tested. The Agency concludes that propiconazole was negative for oncogenicity in the rat.

The Agency has evaluated dietary exposure to the fungicide residues for the commodities proposed, using data on expected residues. Also, available data indicate that 20 percent of the total U.S. rice acreage is treated with fungicides, 2 percent of the wheat is treated with fungicides, and no more than 5 percent of the barley and rye are treated with fungicides. These percentages were considered for these commodities, and it was assumed that 100 percent of the pecans and bananas will be treated with the fungicide.

Using a Weibull 82 model, the upper limit on dietary oncogenic risk is calculated to be 1 incidence in a million.

Based on the NOEL of 1.9 mg/kg/day in the 1-year dog study and a 100-fold safety factor, the acceptable daily intake (ADI) has been set at 0.02 mg/kg/day for the U.S. population. Using expected residues, the residue contribution of 0.000018 mg/kg/day was calculated and 0.09 percent of the ADI is utilized.

Decisions on future tolerances will be based on considerations of the oncogenic risk and the percent of the ADI utilized. The oncogenic risk is considered the limiting factor for tolerances at this point in time. Since the upper limit of oncogenic risk for the tolerances established today is 1 incidence in a million, decisions on any future tolerances would have to take into account factors such as actual residues and processing studies to demonstrate that the oncogenic risk would not exceed the range of 10^{-6}.

There are no regulatory actions pending against the registration of the fungicide. The metabolism of the fungicide in plants and animals is adequately understood for purposes of the tolerances set forth below. Two analytical methods, including gas liquid chromatography equipped with an electron capture detector, are available for enforcement purposes. Method AG-454A for crops and AG-517 for livestock commodities both determine the parent compound per se and metabolites as 2,4-dichlorobenzoic acid expressed as parent compound. Because of the long lead time from establishing these tolerances to publication of the enforcement methodologies in the "Pesticide Analytical Manual Volume II," the analytical methodologies are being made available in the interim to anyone interested in pesticide enforcement when requested by mail from:

William Grosse, Chief, Information Services Branch, Program Management and Support Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 223, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Based on the information cited above, the Agency has determined that establishing the tolerances for residues of the pesticide in or on the listed commodities will protect the public health. Therefore, tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Section 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: June 10, 1987.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation continues to read as follows:

Authority: 21 U.S.C. 346a.

2. New § 180.434 is added, to read as follows:

§ 180.434 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1H-1,2,4-triazole; tolerances for residues.

Tolerances are established for the residues of 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1H-1,2,4-triazole and its metabolites determined as 2,4-dichlorobenzoic acid and expressed as parent compound, in or on the following raw agricultural commodities:

Commodities	Parts per million
Bananas	0.2
Barley, grain	0.1
Barley, straw	1.5
Cattle, fat	0.1
Cattle, kidney	0.2
Cattle, liver	0.2
Cattle, meat	0.1
Cattle, meat byproducts (except kidney and liver)	0.1
Eggs	0.1
Goats, fat	0.1
Goats, kidney	0.2
Goats, liver	0.2
Goats, meat	0.1
Goats, meat byproducts (except kidney and liver)	0.1
Hogs, fat	0.1
Hogs, kidney	0.2
Hogs, liver	0.2
Hogs, meat	0.1
Hogs, meat byproducts (except kidney and liver)	0.1
Horses, fat	0.1
Horses, kidney	0.2
Horses, liver	0.2

[FR Doc. 87-14322 Filed 6-23-87; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-26

[FPMR Temp. Reg. E-87]

Procurement of GSA Stock Items

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This regulation increases the dollar threshold below which GSA is a nonmandatory source of supply for activities in the conterminous United States, Hawaii, and Alaska when requisitioning stock items listed in the GSA Supply Catalog. The threshold is increased to allow additional opportunities for executive agencies to take advantage of situations that would result in the lowest overall cost.

DATES: *Effective date:* June 1, 1987. *Expiration date:* May 31, 1988. *Comments due on or before:* July 31, 1987.

ADDRESS: Comments should be addressed to General Services Administration (FFP), Washington, DC 20406.

FOR FURTHER INFORMATION CONTACT: Mr. F. Donald Genova, Director, Logistics Planning and Marketing Division on (703-557-7970).

SUPPLEMENTARY INFORMATION: GSA has determined that this is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR 101-26

Government property management.

Authority: Sec. 205(c) 63 Stat. 390; (40 U.S.C. 486(c).

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter E to read as follows:

General Services Administration, Federal Property Management Regulations, Temporary Regulation E-87

June 1, 1987.

To: Heads of Federal agencies.

Subject: Procurement of GSA stock items.

1. *Purpose.* This regulation contains changes relating to GSA stock as a mandatory source of supply.

2. *Effective date.* This regulation is effective June 1, 1987.

3. *Expiration date.* This regulation expires May 31, 1988, unless sooner superseded or incorporated into the permanent regulations of GSA.

4. *Applicability.* The provisions of this regulation apply to all executive agencies.

5. *Background.* There is an increased emphasis being placed on maximizing overall Governmentwide efficiency. To allow appropriate flexibility needed to precipitate maximum efficiency, the existing $25 threshold for which GSA is a nonmandatory source of supply for stock items is increased to $100. This increased threshold gives executive agencies the opportunity to take advantage of situations that would result in the lowest overall cost when the total value of the line item requirement is less than $100.

6. *GSA stock items.* GSA is an optional source of supply for activities of executive agencies in the conterminous United States, Hawaii, and Alaska for items listed in the GSA Supply Catalog when the total value of the line item requirement is less than $100, except for requirements for Standard and Optional forms (see FPMR 101-26.302), items produced by the Federal Prison Industries, Inc., or items listed in the Procurement List published by the Committee for Purchase from the Blind and Other Severely Handicapped.

7. *Requisitioning stock items from GSA.*

a. Items normally included in a single order shall not be subdivided in determining application of this regulation.

b. Executive agencies shall requisition stock items from GSA when the total line item value is $100 or more. GSA will process all requisitions for items listed in the GSA Supply Catalog, regardless of value, from activities electing not to exercise the option provided by this regulation.

8. *Agency comments.* Comments concerning the effect or impact of this regulation on agency operations should be submitted to the General Services Administration (FFP), Washington, DC 20406, no later than July 31, 1987, for consideration and possible incorporation into a permanent regulation.

9. *Effect on other directives.* This regulation supersedes FPMR 101-26.301(b).

T.C. Golden,

Administrator of General Services.

[FR Doc. 87-14343 Filed 6-23-87; 8:45 am]

BILLING CODE 6820-24-M

41 CFR Part 105-53

Statement of Organization and Functions

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is revising its statement of organization and functions to reflect its current organizational structure, functional arrangements, and organizational titles; and to update and/or correct the addresses and telephone numbers of the Business Service Centers and Regional Offices. This regulation is informational in nature and is published in accordance with the Freedom of Information Act.

EFFECTIVE DATE: June 24, 1987.

FOR FURTHER INFORMATION CONTACT: Sylvester H. Kish, Director, Organization and Productivity Improvement Division (202-566-0086).

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this rule is not a major rule for the purposes of E.O. 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a Regulatory Impact Analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and the consequence of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 105–53

Computer technology, Federal buildings and facilities, Federal Supply Service, Government property, Government property management, Organization and functions (Government agencies), Surplus Government property, Strategic materials.

PART 105–53—STATEMENT OF ORGANIZATION AND FUNCTIONS

1. The authority citation for Part 105–53 continues to read as follows:

Authority: 5 U.S.C. 552(a)(1), Pub. L. 90–23, 81 Stat. 54 sec. (a)(1); 40 U.S.C. 486(c), Pub. L. 81–152, 63 Stat. 390, sec. 205(c).

Subpart A—General

2. Section 105–53.118 is amended by revising paragraphs (c), (e), (j), and (m) as follows:

§ 105–53.118 Locations of material available for public inspection.

* * * * *

(c) Business Service Center, General Services Administration, 26 Federal Plaza, NY, NY 10278. Telephone: 212–264–1234.

* * * * *

(e) Business Service Center, General Services Administration, Ninth & Market Streets, Room 5151, Philadelphia, PA 19107. Telephone: 215–597–9613.

* * * * *

(j) Business Services Center, General Services Administration, 1961 Stout Street, Denver, CO 80294. Telephone: 303–844–2435.

* * * * *

(m) Business Service Center, General Services Administration, GSA Center, Auburn, WA 98001. Telephone: 206–931–7956.

3. Section 105–53.120 is revised as follows:

§ 105–53.120 Address and telephone numbers.

The Office of the Administrator; Office of Ethics; Office of the Executive Secretariat; Office of Small and Disadvantaged Business Utilization; Office of Inspector General; GSA Board of Contract Appeals; Information Security Oversight Office; Office of Administration; Office of Operations; Office of Acquisition Policy; Office of General Counsel; Office of the Comptroller; Office of Congressional Affairs; Office of Policy Analysis; Office of Public Affairs; Information Resources Management Service; Federal Property Resources Service; and Public Buildings Service are located at 18th and F Streets, NW., Washington, DC 20405. The Federal Supply Service is located at Crystal Mall Building 4, 1941 Jefferson Davis Highway, Washington, DC 20406. The telephone number for the above addresses is 202–655–4000. The addresses of the eleven regional offices are provided in § 105–53.151.

Subpart B—Central Office

4. Section 105–54.134 is revised to read as follows:

§ 105–53.134 Office of Administration.

The Office of Administration, headed by the Associate Administrator for Administration, participates in the executive leadership of the agency; providing advice on the formulation of major policies and procedures, particularly those of a critical or controversial nature, to the Administrator and Deputy Administrator. The office plans and administers programs in equal employment opportunity, organization, productivity improvement, position management, training, staffing, position classification and pay administration, employee relations, workers' compensation, career development, administrative services, GSA internal security, committee management secretariat, and the Cooperative Administrative Support Unit (CASU) programs. The office also serves as the central point of control for audit and inspection reports from the Inspector General and the Comptroller General of the United States; manages the GSA internal controls evaluation, improvement, and reporting program; coordinates and provides support to various committees engaged in enhancing the management of GSA; provides leadership for GSA's commitment to excellence in management practices and techniques in interactions with the Congress, other Federal agencies, and the private sector; and is responsible for the overall implementation of OMB Circular A–76 agencywide.

5. Section 105–53.135 is revised as follows:

§ 105–53.135 Office of Operations.

The Office of Operations, headed by the Associate Administrator for Operations, participates in the executive leadership of the agency and in the formulation of GSA-wide policy that relates to regional operations and supervises GSA's Regional Administrators; and plans and coordinates customer liaison activities for GSA.

6. Section 105–53.137 is revised to read as follows:

§ 105–53.137 Office of Acquisition Policy.

(a) *Functions.* The Office of Acquisition Policy (OAP), headed by the Associate Administrator for Acquisition Policy, serves as the single focal point for GSA acquisition and contracting matters and is responsible for ensuring that the GSA procurement process is executed in compliance with all appropriate public laws and regulations and is based on sound business judgment. Also, OAP exercises Governmentwide acquisition responsibilities through its participation with the Department of Defense and the National Aeronautics and Space Administration in the development and publication of the Federal Acquisition Regulation.

(b) *Regulations.* Regulations pertaining to OAP programs are published in 48 CFR Chapter 1, Federal Acquisition Regulation (FAR), and in 48 CFR Chapter 5, General Services Acquisition Regulation (GSAR). Information on availability of the regulations is provided in § 105–53.116.

7. Section 105–53.143 is amended by revising paragraph (b) as follows:

§ 105–53.143 Information Resources Management Service.

* * * * *

(b) *Functions.* IRMS is responsible for directing and managing Governmentwide programs for the procurement and use of automatic data processing (ADP), office information systems, and telecommunications equipment and services; developing and coordinating Governmentwide plans, policies, procedures, regulations, and publications pertaining to ADP; telecommunications and records management activities; managing and operating the Information Technology

Fund; managing and operating the Federal Telecommunications System (FTS); planning and directing programs for improving Federal records and information management practices Governmentwide; managing and operating the Federal Information Centers; developing and overseeing GSA policy concerning automated information systems, equipment, and facilities; and providing policy and program direction for the GSA Emergency Preparedness and Disaster Support Programs.

* * * * *

8. Section 105–53.147 is amended by revising paragraph (b) as follows:

§ 105–53.147 Public Buildings Service.

* * * * *

(b) *Functions.* PBS is responsible for the design, construction, management, maintenance, operation, alteration, extension, remodeling, preservation, repair, improvement, protection, and control of buildings, both federally owned and leased, in which are provided housing accommodations for Government activities; the acquisition, utilization, custody, and accountability for GSA real property and related personal property; representing the consumer interests of the Federal executive agencies before Federal and State rate regulatory commissions and providing procurement support and contracting for public utilities (except telecommunications); the Safety and Environmental Management Program for GSA managed Government-owned and-leased facilities; providing for the protection and enhancement of the cultural environment for federally owned sites, structures, and objects of historical, architectural, or archaeological significance; ensuring that Federal work space is used more effectively and efficiently; providing leadership in the development and maintenance of needed property management information systems for the Government; and coordination of GSA activities towards improving the environment, as required by the National Environmental Policy Act of 1959.

* * * * *

Subpart C—Regional Offices

9. Section 105–53.151 is revised to show the correct addresses and telephone numbers for Regions No. 1, 2, 4, 7, and 10:

§ 105–53.151 Geographical composition, addresses, and telephone numbers.

* * * * *

No. 1. (Comprising the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont); Boston FOB, 10 Causway Street, Boston, MA 02222. Telephone: 617–565–5860.

* * * * *

No. 2. (Comprising the States of New Jersey and New York, the Commonwealth of Puerto Rico, and the Virgin Islands); 26 Federal Plaza, New York, NY 10278. Telephone: 212–264–2600.

* * * * *

No. 4. (Comprising the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee); 75 Spring Street, SW., Atlanta, GA 30303. Telephone: 404–331–3200.

* * * * *

No. 7. (Comprising the States of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas); 819 Taylor Street, Fort Worth, TX 76102. Telephone: 817–334–2321.

* * * * *

No. 10. (Comprising the States of Alaska, Idaho, Oregon, and Washington); GSA Center, Auburn, WA 98001. Telephone: 206–931–7100.

* * * * *

Dated: June 18, 1987.

Paul T. Weiss,

Associate Administrator for Administration.

[FR Doc. 87–14317 Filed 6–23–87; 8:45 am]

BILLING CODE 6820–34–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[Gen. Docket No. 83–989; FCC 87–196]

Enforcement of Prohibitions Against the Use of Common Carriers for the Transmission of Obscene Materials

AGENCY: Federal Communications Commission.

ACTION: Order deferring effective date of final rule.

SUMMARY: In the matter of enforcement of prohibitions against the use of common carriers for the transmission of obscene materials, the Commission has denied a request for stay pending appeal filed by Carlin Communications, Inc. of *Third Report and Order*, 52 FR 17760 (May 12, 1987). However, in order to assure compliance by messsage providers in areas served by the New York Telephone Company the Commission deferred until August 15, 1987 the effective date of the *Third Report and Order* for that area.

EFFECTIVE DATE: August 15, 1987.

FOR FURTHER INFORMATION CONTACT: Patrick Donovan, Domestic Facilities Division, Common Carrier Bureau, (202) 634–1832.

This is a summary of the Commission's order adopted June 1, 1987, and released June 1, 1987, Gen Docket 83–989 extending the effective date from June 15, 1987 until August 15, 1987 of *Third Report and Order* in this docket for areas served by the New York Telephone Company.

The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, Northwest, Suite 140, Washington, DC 20037.

Summary of Commission Decision

The Commission has denied a request for stay pending appeal filed by Carlin Communications, Inc. of *Third Report and Order*, 52 FR 17760 (May 12, 1987). On May 20, 1987, Carlin filed a petition for review of the *Third Report and Order* in the Second Circuit Court of Appeals. In that decision, the Commission reestablished access codes as an acceptable method by which telephone adult message providers could restrict access to their services by minors in areas served by the New York Telephone Co. The Commission additionally amended § 64.201 of the rules, 47 CFR 64.201, to provide that as an alternative to requiring prepayment by credit card, or, establishing an access code system, adult message sponsors in all areas of the country may restrict access by minors by scrambling the message. In its request for stay Carlin contended principally that a stay should be granted because the Commission's regulation will be voided by the court as unconstitutionally burdensome on adult message sponsors' first amendment rights, and because Carlin would be irreparably injured by enforcement of the Commission's regulation pending appeal because attempted compliance with the Commission's regulation would effectively terminate its financial ability to continue in business. In its *Order*, the Commission found that Carlin had neither shown that it was likely to prevail on appeal nor that it would be irreparably injured pending appeal. The Commission found that Carlin had failed to justify a stay pending appeal of the *Third Report and Order* under the standards set forth in *Virginia Petroleum Jobbers* v. *F.P.C.*, 259 F.2d 921 (D.C. Cir. 1958) and *Washington Metropolitan Area Transit Commission* v. *Holiday Tours*, 559 F.2d 841 (D.C. Cir. 1977). However, the Commission

deferred the effective date of the *Third Report and Order* until August 15, 1987, in areas served by the New York Telephone Company in order to assure that adult message sponsors in that area would have sufficient time to implement access codes or other acceptable methods of restricting access by minors set forth in section 64.201. The Commission's decision extending the effective date for areas served by the New York Telephone Co. does not affect the effective date of June 15, 1987, for other areas of the country.

Ordering Clauses

18. Accordingly, it is ordered, That the petition for stay filed by Carlin Communications, Inc. is denied.

19. It is further ordered, That the effective date of the Commission's *Third Report and Order*, 52 FR 17760 (May 12, 1987) with respect to areas served by the New York Telephone Company, is deferred until August 15, 1987.

20. Authority for this action is contained in section 8(c) of the Federal Communications Authorization Act of 1983, Pub. L. No. 98–214, December 8, 1983.

List of Subjects in 47 CFR Part 64

Communications common carriers, Communications equipment, Telephone, Obscene or indecent communications.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87–14163 Filed 6–23–87; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 86–296; RM–5327]

Radio Broadcasting Services; Roscommon, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates Channel 266A to Roscommon, Michigan, as that community's first broadcast service, in response to a petition filed by D.J. Fox. Supporting comments were filed by the petitioner. Concurrence of the Canadian government has been obtained for the allotment of Channel 266A at Roscommon. With this action, this proceeding is terminated.

EFFECTIVE DATE: July 31, 1987. The window period for filing applications will open on August 3, 1987, and close on August 31, 1987.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–296, adopted March 27, 1987, and released June 17, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for Michigan is amended by adding "Roscommon, Channel 266A."

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–14287 Filed 6–23–87; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 86–32; RMs–5006, 5040, 5041, 5217, 5300]

Radio Broadcasting Services; Greenwood, SC, et al.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates Channel 243A to Biltmore Forest, NC, as the community's first local FM service, at the request of Diana Cecil Pickering, and substitutes Channel 242C2 for Channel 240A at Aiken, SC, at the request of Amici Broadcasting Corp. The Commission also modifies Amici's license for Station WJFX–FM to specify operation on the higher powered channel. Channel 243A at Biltmore Forest requires a site restriction of 1.9 kilometers southwest and Channel 242C2 at Aiken requires a site restriction of 19 kilometers northwest. The following conflicting requests have been denied: (1) Eaton Broadcasting Corp. requested the substitution of Channel 243C2 for Channel 244A at Greenwood, SC, as the community's first wide-area coverage service, and the modification of its license for Station WSCZ to specify the new channel; and (2) LHR Partners petitioned for the allocation of Channel 243A to Seneca, SC, as the community's second local FM service. These proposals were denied based on a determination that neither allotment would provide a greater public benefit than the combined first local service at Biltmore Forest and second wide-area coverage service at Aiken. The request of Tri-County Broadcasting Corporation to allocate Channel 243A to Clemson, SC, is denied since use of the channel could not provide the entire community with a 70 dBu city grade signal as required by § 73.315(a) of the Rules. With this action, this proceeding is terminated.

EFFECTIVE DATE: July 31, 1987; the window period for filing applications for Channel 243A at Biltmore Forest will open on August 3, 1987, and close on August 31, 1987.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–32, adopted April 23, 1987, and released June 17, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for North Carolina, is amended by adding Biltmore Forest, Channel 243A. The Table of FM Allotments for South Carolina is

amended by adding Channel 242C2 and deleting Channel 240A at Aiken.

Bradley P. Holmes,

Chief, Policy and Rules Division, Mass Madia Bureau.

[FR Doc. 87-14285 Filed 6-23-87; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039 and 1090

[Ex Parte No. 230 (Sub-No. 6)]

Intermodal Transportation Trailer or Flatcar and Container on Flatcar Service Improvement; Improvement of TOFC/COFC Regulations

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: After notice and comment of the motor portion of joint rail-motor TOFC/COFC services, the Commission has concluded that the exemption currently found in 49 CFR 1039.13, established in its prior decision in *Improvement of TOFC/COFC Regulation*, 364 I.C.C. 731, 46 FR 14348 (Feb. 27, 1981), can and should now apply to motor carrier TOFC/COFC services performed under joint rate or agency arrangements with rail carriers. The provisions of 49 CFR 1039.13 are being replaced by new provisions in 49 CFR 1090.1 and 1090.2.

DATE: This decision will be effective on July 23, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423 or call 289-4357 (DC Metropolitan area).

Environment and Energy

This action will not significantly affect either the quality of the human environment or energy conservation.

Regulatory Flexibility

This action may have a significant and beneficial effect on a substantial number of small entities by relieving small businesses from otherwise applicable regulatory requirements.

List of Subjects

49 CFR Part 1039

Agricultural commodities, Intermodal transportation, Railroads.

49 CFR Part 1090

Intermodal transportation, Motor carriers, Railroads.

Authority: 49 U.S.C. 10321(a), 10505; 5 U.S.C. 553.

Decided: June 11, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary.

PART 1039—[AMENDED]

Title 49, Chapter X of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 1039 continues to read as follows:

Authority: 49 U.S.C. 10321, 10505, 10713, 10762, 11105, and 11122; and 5 U.S.C. 553.

2. Section 1039.13 is revised to read as follows:

§ 1039.13 Rail intermodal transportation exemption.

See Part 1090.

3. Part 1090 is revised to read as follows:

PART 1090—PRACTICES OF CARRIERS INVOLVED IN THE INTERMODAL MOVEMENT OF CONTAINERIZED FREIGHT

Sec.

Authority: 49 U.S.C 2321(a) and 10505; 5 U.S.C. 553.

§ 1090.1 Definition of TOFC/COFC service.

(a) Rail trailer-on-flatcar/container-on-flatcar (TOFC/COFC) service means the transportation by rail, in interstate or foreign commerce, of—

(1) Any freight-laden highway truck, trailer, or semitrailer,

(2) The freight-laden container portion of any highway truck, trailer, or semitrailer having a demountable chassis,

(3) Any freigh-laden multimodal vehicle designed to operate both as a highway truck, trailer, or semitrailer and as a rail car,

(4) Any freight-laden intermodal container comparable in dimensions to a highway truck, trailer, or semitrailer and designed to be transported by more than one mode of transportation, or

(5) Any of the foregoing types of equipment when empty and being transported incidental to its previous or subsequent use in TOFC/COFC service.

(b) Highway TOFC/COFC service means the highway transportation, in interstate or foreign commerce, of any of the types of equipment listed in paragraph (a) of this section as part of a continuous intermodal movement that includes rail TOFC/COFC service, and during which the trailer or container is not unloaded.

§ 1090.2 Exemption of rail and highway TOFC/COFC service.

Except as provided in 49 U.S.C. 10505(e) and (g), 10922(1), and 10530, rail TOFC/COFC service and highway TOFC/COFC service provided by a rail carrier either itself of jointly with a motor carrier as part of a continuous intermodal freight movement, is exempt from the requirements of 49 U.S.C. Subtitle IV, regardless of the type, affiliation, or ownership of the carrier performing the highway portion of the service. Tariffs heretofore applicable to any transportation service exempted by this section shall no longer apply to such service.

§ 1090.3 Use TOFC/COFC service by water carriers.

(a) Except as otherwise prohibited by these rules, water common and contract carriers may use rail TOFC/COFC service in the performance of all or any portion of their authorized service.

(b) Water common carriers may use rail TOFC/COFC service only if their tariff publications give notice that such service may be used at their option, but that the right is reserved to the user of their services to direct that in any particular instance TOFC/COFC service not be used.

(c) Water contract carriers may use rail TOFC/COFC service only if their transportation contracts and tariffs make appropriate provisions therefor.

(d) Tariffs of water common or contract carriers providing for the use of rail TOFC/COFC service shall set forth the points between which TOFC/COFC service may be used.

[FR Doc. 87-14428 Filed 6-23-87; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 52, No. 121
Wednesday, June 24, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-CE-21-AD]

Airworthiness Directives; Beech 90 and 100 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to certain Beech Models 65-90, 65-A90, 65-A90-1, 65-A90-2, 65-A90-3, 65-A90-4, B90, C90, C90A, E90, 100, A100, and B100 airplanes which would supersede AD 86-18-02 and require repetitive inspections of the wing main spar lower cap and associated structure. Subsequent to issuance of AD 86-18-02, additional fatigue cracks have been found. The action proposed herein will detect and correct fatigue cracks prior to wing failure.

DATES: Comments must be received on or before July 24, 1987.

ADDRESSES: Beech Structural Inspection and Repair Manual (SIRM), can be obtained from Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085 or from the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 87-CE-21-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Don Campbell, Aerospace Engineer, Airframe Branch, ACE-120W, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Wichita, Kansas 67209; Telephone (316) 946-4409.

SUPPLEMENTARY INFORMATION

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 87-CE-21-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

AD 86-18-02 was issued on August 12, 1986, requiring a one-time inspection for fatigue cracking of the wing main spar lower cap and associated structure on certain Beech 90 and 100 Series airplanes. Issuance of that AD was based on the discovery of ten fatigue cracks by voluntary accomplishment of the SIRM inspections. These were cracks which could not be satisfactorily removed by approved repair techniques. Subsequent to the issuance of AD 86-18-02, ten more non-removable fatigue cracks were found. In addition, approximately 25 smaller cracks were found and successfully removed. Fracture mechanics analysis supported by flight strain surveys indicate the number of cracked spars is increasing with the potential to propagate to wing failure.

Fatigue cracks are known to develop in the lower main spar caps and attach fittings on the Beech 90 and 100 Series airplanes. Therefore, justification exists for repeating the inspections which were required only once by AD 86-18-02. The inspection threshold was reduced from 5,000 hours to 3,000 hours because of fatigue crack information from the field and the results of flight strain surveys by Beech have indicated that the "Standard Flight Profile Inspection Schedule" on page 202 of the SIRM is unconservative. Accordingly, in the proposed AD, initial inspection will be required at 3,000 hours time-in-service (TIS). The inspection interval will be 1,000 hours TIS.

Two of the above mentioned twenty cracks occurred in airplanes which had spar reinforcing straps installed. Because strapping does not preclude crack growth, no justification exists for relaxation of inspection requirements on strapped airplanes.

Specific training is required to assure that the inspector knows exactly where to look for cracks and gain experience with actual crack detection. Virtually all twenty of the cracks found, to date, were found by Beech trained inspectors around the world. This accentuates the fact that properly trained personnel do find cracks.

Reports of inspection are needed to support future regulatory action, if such should become necessary.

The FAA has also determined that the proposed repetitive inspections are no longer required when the airplane has been modified per Beech Kit No. 90-4077-1S, entitled "Integral Spar Installation, Center Section and Outboard Wing".

Since the condition described is likely to exist or develop in other Beech 90 and 100 Series airplanes of the same design, the AD would require inspection of the wing main spar structure in accordance with the Beech Structural Inspection and Repair Manual, P/N 98-39006. The FAA has determined there are approximately 1,569 airplanes affected by the proposed AD. The cost of inspecting these airplanes in accordance with the

proposed AD is estimated to be $750 annually per airplane. The total annual cost is estimated to be $1,180,000 to the private sector. The total cost of this inspection is less than the threshold for a significant economic impact.

The total cost of compliance with the proposed AD is less than $100 million, the threshold cost for a major rule.

Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES".**

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Beech: Applies to Models 65-90 and 65-A90 (S/N LJ-68 thru LJ-317); 65-A90-1, 65-A90-2, 65-A90-3, 65-A90-4, B90, C90 (all S/N); C90A (S/N LJ-1063 thru LJ-1087, except LJ-1085); E90, 100, A100 and B100 (all S/N) airplanes, certified in any category.

Note 1.—Airplanes equipped with spar reinforcing straps incorporated by supplemental Type certificate or Type certificate are not exempt from this AD.

Compliance: Required as indicated after the effective date of this AD unless already accomplished.

To detect possible fatigue cracking of the wing main spar lower cap and associated structure, accomplish the following:

(a) Within the next 200 hours time-in-service (TIS), after the effective date of this AD, or upon accummulating 3000 hours TIS, whichever occurs later, unless previously accomplished per AD 86-18-02, and thereafter at intervals not to exceed 1000 hours TIS after the initial inspection, inspect the wing lower forward spar attach fittings, center section and outboard wing spar caps adjacent to the attach fittings by visual, fluorescent penetrant and eddy current methods as specified in the applicable section of Beech Structural Inspection and Repair Manual, P/N 98-39006, revision A4, dated May 1, 1987 (SIRM).

The inspection must be performed by personnel specifically trained by Beech Aircraft Corporation.

Note 2.—Beech offers a two-day training course free of charge to qualified personnel who have prior knowledge of eddy current inspection techniques. A listing of Beech Corporate maintenance facilities may be obtained from the sources contained in paragraph (f) of this AD. A listing of other facilities employing qualified inspectors is not available.

(b) If any crack is found in a main spar lower cap or fitting, prior to further flight, repair or replace the defective part using the instructions and limitations specified in the SIRM or other FAA approved instructions provided by Beech Aircraft Corporation.

(c) Within one week after completion of any inspection required by paragragh (a) of this AD, complete the reporting form included with this AD as Figure 1 and mail it to the address shown thereon (Reporting approved by the Office of Management and Budget under OMB No. 2120-0056).

(d) The initial and repetitive inspections specified in this AD are no longer required when the airplane is modified by Beech Wing Modification Kit No. 90-4077-lS.

(e) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD can be accomplished.

(f) The compliance time for inspections specified in this AD may be extended up to ten percent to coincide with the next wing bolt inspection per AD 85-22-05, if applicable, or with other scheduled maintenance.

(g) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; Telephone (316) 946-4400.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Beech Aircraft Corporation, Commercial Service, Department 52, Wichita, Kansas 67201-0085 or examined at FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on June 9, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87-14278 Filed 6-23-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 87-CE-20-AD]

Airworthiness Directives; Beech Models F33A, V35B, A36, A36TC, B36TC, E55, 95B55, 58, 58A, 58P, 58PA, 58TC, and 58TCA Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to certain Beech Models F33A, V35B, A36, A36TC, B36TC, E55, 95B55, 58, 58A, 58P 58PA, 58TC, and 58TCA airplanes. It would replace the seat recline actuator handle assembly with a re-designed one to prevent the inadvertent reclining of the co-pilot's and/or third and fourth passenger seats. Such inadvertent activation of the crew seat during a critical flight regime from the co-pilot's position, could impede safe flight operation. In addition, reclining the passenger seat during an emergency landing condition could cause injury to that occupant.

DATES: Comments must be received on or before July 24, 1987.

ADDRESSES: Beech Service Bulletin Number 2175, Revision 1, dated May 1987, applicable to this AD may be obtained from Beech Aircraft Corporation, Commercial Service, Dept. 52, P.O. Box 85, Wichita, Kansas 67201-0085 or may be examined at the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 87-CE-20-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Larry Engler, Federal Aviation Administration, Wichita Aircraft Certification Office, ACE-120W, 1801 Airport Road, Room 100, Wichita, Kansas 67209; Telephone (316) 946-4409.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in

duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 87–CE–20–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

A newly designed center armrest was added to the 1980 Beech Models F33A, V35B, A36, A36TC, B36TC, E55, 95B55, 58, 58A, 58P, 58PA, 58TC, and 58TCA airplanes. The free play designed into the armrest allows the optional seat recline adjuster handle to be inadvertently actuated if force is applied downward in the forward end of the armrest. The friction between the armrest saddle and the bottom seat cushion may, in-turn, prevent the armrest from returning to its stowed position or the seat back to its upright position. The inadvertent actuation during a critical flight regime while operating the airplane from the co-pilot seat could impede flight operations. If either the third or fourth aft facing passenger seat is reclined during a crash scenario, this could overload the crew seats and restraint systems. For forward facing seats, an inadvertent reclining could induce injury to the occupant. To correct this problem, Beech has issued Service Bulletin No. 2175, which provides a new, relocated, seat recline actuator handle.

Since the condition described is likely to exist or develop in other Beech Models of the same design, the AD would require the replacement of the existing seat recline actuator handle on the co-pilot's and the third and fourth passenger seats with a new handle assembly in accordance with the Beech Service Bulletin on the affected airplanes.

The FAA has determined there are approximately 2200 airplanes affected by the proposed AD. The cost of modifying these airplanes in the proposed AD is estimated to be $40 per airplane. The total cost is estimated to be $88,000 to the private sector. The cost of this modification will not have a significant economic impact on the private sector.

Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES"**.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Beech: Applies to model and serial numbered airplanes listed below equipped with the optional hydrolock seat recline actuators on co-pilot and 3rd and 4th seats, certificated in any category:

Model	Serial Numbers
F33A	CE-919, CE-923, CE-925, CE-927, CE-929, thru CE-1083.
V35B	D-10348, D-10353 thru D-10403.
A36	E-1422, E-1551, E-1569, E-1581, E-1594 thru E-2327.
A36TC and B36TC	EA-21, EA-28, EA-33 thru EA-454.
95-B55	TC-2340, TC-2355 thru TC-2456.
E55	TE-1152, TE-1181 thru TE-1201.
58 and 58A	TH-1027, TH-1062, TH-1067, TH-1080 thru TH-1507.
58P and 58PA	TJ-210, TJ-235 thru TJ-497.
58TC and 58TCA	TK-107, TK-108, TK-110 thru TK-151.

Compliance: Required within the next 100 hours or the next scheduled inspection whichever occurs first after the effective date of this AD, unless already accomplished.

To prevent the co-pilot and/or passenger chair armrest from coming in contact with the seat recline actuator handle and inadvertently releasing the locking feature on the seatback, accomplish the following:

(a) Replace the seat recline actuator handle on the co-pilot's and the third and fourth passenger seats that are equipped with reclining backs, with a new P/N 102–530111–5 handle assembly in accordance with the instructions in Beech Service Bulletin No. 2175.

Note.—The third and fourth passenger seats are the seats immediately behind the pilot's and co-pilot's seats.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An equivalent means of compliance with this AD may be used if approved by the Manager, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; Telephone (316) 946–4400.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Beech Aircraft Corporation, Commercial Service, Dept. 52, P.O. Box 85, Wichita, Kansas 67201–0085, or may examine the documents referred to herein at the FAA, Office of the Regional Counsel, 601 East 12th Street, Room 1558, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on June 9, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87–14279 Filed 6–23–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 87–NM–66–AD]

Airworthiness Directives; British Aerospace Viscount Model 700 and 800 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD), applicable to British Aerospace (BAe) Viscount Model 700 and 800 series airplanes, that would require periodic inspections for cracks, and replacement if necessary, of the aluminum main landing gear ram feet. This proposal is prompted by reports of long term stress corrosion cracking of a ram foot. Failure to detect cracks could lead to failure of the main landing gear brake flange and loss of braking.

DATES: Comments must be received no later than August 8, 1987.

ADDRESS: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-66-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Inc., Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing such FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-66-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The United Kingdom Civil Aviation Authority (CAA) has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of cracks developing in the aluminum main landing gear ram feet on British Aerospace Viscount Series 700 and Series 800 airplanes. Cracking has been attributed to long term stress corrosion. This condition, if not corrected, could cause brake flange failure with possible subsequent loss of braking, and loss of the affected wheel.

British Aerospace has issued Preliminary Technical Leaflets (PTL) No. 317 and 186, both dated June 10, 1986, for Vicsount Model 700 and 800 series airplanes, respectively. The PTL's describe procedures for inspection and replacement, if necessary, of the main landing gear ram feet. The CAA has declared the PTL's mandatory.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require inspection and replacement, if necessary, of the aluminum ram feet on the main landing gear on British Aerospace Viscount Series 700 and Series 800 airplanes in accordance with the British Aerospace PTL's previously mentioned.

It is estimated that 27 airplanes of U.S. registry would be affected by this AD, that it would take approximately 2 manhours per airplane to accomplish the required inspection, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $2,160.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($80). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

British Aerospace: Applies to Viscount Model 700 series and 800 series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent failure of landing gear ram feet, accomplish the following:

A. For all Model 700 series airplanes, pre-modification D2781:

1. Within 30 days or 120 landings after the effective date of this AD, whichever occurs first, inspect and replace, if necessary, main landing gear ram feet in accordance with Paragraph 2.0 "Accomplishment Instructions" of British Aerospace (BAe) Viscount Preliminary Technical Leaflet (PTL) No. 317, dated June 10, 1986.

2. Repeat the above inspection at intervals not to exceed 14 months or 1,600 landings, whichever occurs first.

B. For all Model 800 series airplanes, pre-modification F1323:

1. Within 30 days or 120 landings after the effective date of this AD, whichever occurs first, inspect and replace, if necessary, main landing gear ram feet in accordance with Paragraph 2.0 "Accomplishment Instructions" of BAe Viscount PTL No. 186, dated June 10, 1986.

2. Repeat the above inspection at intervals not to exceed 14 months or 1,600 landings, whichever occurs first.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the inspections required by this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to British Aerospace, Inc., Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport,

Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on June 11, 1987.

Frederick M. Isaac,

Acting, Director, Northwest Mountain Region.

[FR Doc. 87-14280 Filed 6-23-87; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-24623; File No. S7-22-87]

Voting Rights Listing Standards; Disenfranchisement

AGENCY: Securities and Exchange Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission announces the commencement of a proceeding, including public hearings, to consider whether to adopt a rule which would have the effect of amending the rules of the national securities exchanges ("exchanges") and national securities associations ("associations") regarding their listing and authorization requirements concerning shareholder voting rights. The Commission is proposing to amend exchange and association rules to prohibit a company's common stock and equity securities from being listed or remaining listed on an exchange or from being authorized or remaining authorized for quotation and/or transaction reporting through an automated inter-dealer quotation system operated by an association (such as the National Association of Securities Dealers Automated Quotation ("NASDAQ") system) if such company issues securities or takes other corporate action that would have the effect of nullifying, restricting or disparately reducing the voting rights of existing shareholders of the company.

DATES: Public hearings will begin at 10:00 a.m., Wednesday, July 22, 1987. People wishing to appear at the hearings should contact Jonathan G. Katz, Secretary of the Commission, at the address listed below no later than June 30, 1987. The schedule of appearances will be announced by the Commission shortly before the hearings commence. People scheduled to appear should submit the original and ten copies of their written testimony by July 15, 1987. Those people who do not wish to appear, but would like to have their views considered, should submit three copies of their written comments no later than July 15, 1987.

ADDRESS: Public hearings will be held in Room 1C30 at the home office of the Securities and Exchange Commission, located at 450 Fifth St., NW., Washington, DC 20549. All written submissions should refer to File No. S7-22-87 and be addressed to Jonathan G. Katz, Secretary, Securities and Exchange Commission, at the above address. Copies of all written submissions and hearings transcripts will be made available at the Commission's Public Reference Room, also at the above address.

FOR FURTHER INFORMATION CONTACT: Ellen K. Dry, Attorney, Division of Market Regulation, Securities and Exchange Commission, Room 5032, Stop 5-1, 450 Fifth Street, NW., Washington, DC 20549, at 202/272-2843.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Securities and Exchange Commission ("Commission") today announces the commencement of a proceeding, pursuant to Section 19(c) of the Securities Exchange Act of 1934 ("Act"),[1] to consider whether to adopt Rule 19c-4 under the Act which would add to the rules of national securities exchanges that make transaction reports available pursuant to Rule 11Aa3-1 under the Act [2] and to the rules of national securities associations [3] a prohibition on an exchange listing, or an association authorizing for quotation and/or transaction reporting on an automated inter-dealer quotation system,[4] the common stock and equity securities of an issuer if, on or after May 15, 1987, the issuer issues securities or takes other corporate action that would have the effect of nullifying, restricting or disparately reducing the voting rights of any common stock of such issuer registered under section 12 of the Act.[5]

In accordance with section 19(c)(2) of the Act,[6] the Commission hereby invites interested people to submit written comments, and announces the date of public hearings on proposed Rule 19c-4. The attention of interested people is directed to materials cited or referred to herein, copies of which are available at the Commission's Public Reference Room, at the Commission's home office. The information contained in these files (which include all comments received in response to the public notice of a New York Stock Exchange ("NYSE") rule filing regarding shareholder voting rights as well as a summary of those comments),[7] is hereby incorporated into the record of this proceeding. A restatement of those views is, therefore, unnecessary. Persons wishing to participate in this proceeding may, of course, refer to any material previously submitted. In addition to appearing at the scheduled public hearings, interested persons are invited to submit written presentations of views, data and arguments concerning proposed Rule 19c-4 and the issues discussed in this release.

II. Background

In September 1986, the NYSE filed with the Commission a proposed rule change[8] pursuant to section 19(b) of the Act [9] and Rule 19b-4 [10] thereunder to modify its long-standing requirement that every issuer seeking to list securities on the NYSE provide one vote for every share of common stock ("one share, one vote rule").[11] The one share, one vote rule has been a part of the NYSE's listing standards for over 60 years.

The NYSE filing reflected the culmination of a two-year deliberative process which began in 1984, when General Motors Corporation ("GM") announced its intention to issue a second class of stock with one-half vote per share to finance its acquisition of Electronic Data Systems Corporation. At about the same time, several other NYSE-listed companies recapitalized, issuing stock with super voting or less

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[1] 15 U.S.C. 78s(c) (1982).

[2] 17 CFR 240.11Aa3-1. *See* note 87 *infra.*

[3] Currently, the National Association of Securities Dealers ("NASD") is the only national securities association registered under section 15A [15 U.S.C. 78o-3] of the Act.

[4] Currently, NASDAQ is the only such system.

[5] 15 U.S.C. 78s.

[6] 15 U.S.C. 78s(c)(2).

[7] *See* File Nos. S7-22-87, 4-308, SR-NYSE-86-17.

[8] File Nos. SR-NYSE-86-17 and 4-308. The filing was noticed in Securities Exchange Act Release No. 23724 (October 17, 1986), 51 FR 37529.

[9] 15 U.S.C. 78s(b).

[10] 17 CFR 240.19b-4.

[11] The NYSE's *Listed Company Manual* provides standards that must be met by an issuer in order to list its securities on the NYSE. Currently, the NYSE prohibits the listing of a class of stock having unusual voting provisions that tend to nullify or restrict the voting rights of a class, or that has voting rights not in proportion to the equity interests of the class. Accordingly, companies listed on the NYSE must provide one vote for each share of common stock issued. NYSE, *Listed Company Manual section 313.00.*

than full voting rights. As a result of these issuances, among other matters, in June 1984, the NYSE appointed a Subcommittee on Shareholder Participation and Qualitative Listing Standards ("Subcommittee") to consider the continued appropriateness of the NYSE's one share, one vote rule. Meanwhile, pending the NYSE Board of Governors' action on any recommendation of the Subcommittee, the NYSE imposed a moratorium on compliance with its one share, one vote rule. Since the moratorium was established, more than 46 NYSE-listed companies have issued disparate voting stock, or amended their charters to limit the voting power of large shareholders (capped voting rights plans) or holders of recently purchased shares (tenure voting plans). These various departures from the one share, one vote rule are collectively called "disparate voting rights plans."

In January 1985, the Subcommittee recommended permitting classes of stock with disparate voting rights to be listed on the NYSE if certain conditions were met.[12] Following publication of the Subcommittee's recommendations, hearings were held in the United States Congress on the issue of one share, one vote, among other matters.[13] At the same time, interested members of Congress and the Commission encouraged the NYSE, the American Stock Exchange ("Amex") and the NASD to explore the possibility of developing a uniform self-regulatory approach to shareholder voting standards.[14] Subsequently, in June 1985, and again in April 1987, legislation was introduced that would have imposed a one share, one vote rule on publicly traded common stock regardless of the market in which the securities were traded.[15]

In September 1986, the NYSE submitted to the Commission its proposal to modify its one share, one vote standard. The NYSE proposal to modify its one share, one vote policy is based on several factors. First, in light of the growing competition with the Amex and NASD to attract or retain listings, the NYSE believes it will be at a competitive disadvantage if it attempts to maintain unilaterally its voting rights standards. Second, the susceptibility of public companies to hostile takeover attempts has led to a desire by NYSE-listed corporations to adopt disparate voting rights plans as a defensive tactic. Third, the NYSE desires to provide corporate issuers with flexibility in raising capital, structuring acquisitions, and devising their own capital structure. Finally, the NYSE believes that significant changes have occurred in investment and regulatory practices, such as improvements in corporate disclosure requirements and the NYSE's requirements that all domestic companies listed on the NYSE have at least two independent directors on their board and have an audit committee comprised entirely of independent directors, which protect shareholders' interests.

Under the NYSE's proposal, section 313 of the NYSE *Listed Company Manual* would be amended to permit the listing of a class or classes of common stock having disparate voting rights if a majority of the issuer's independent directors and a majority of its "public" shareholders eligible to vote have approved the class or classes of stock. Listed companies that have created disparate voting rights stock during the period in which the NYSE imposed a moratorium on its enforcement of its one share, one vote rule, would have two years from the date the NYSE's proposal becomes effective to comply with the rule. Companies that apply for a listing on the NYSE and have outstanding any class of stock with disparate voting rights must obtain the required approvals prior to listing. No approval is necessary if such stock: (1) Was outstanding at the time the company first became a public company, or (2) was distributed pro rata among the distributor's common shareholders in a spin-off transaction where the distributor is not the issuer.[16]

Shortly after the NYSE initiated its study of its one share, one vote rule, the Pacific Stock Exchange ("PSE") filed a proposed rule change to permit its listed companies to issue dual classes of stock.[17] Currently, Rule I, section 3(b) of the PSE Rules requires that, in order for securities of any class to be considered for listing, the issuer must grant equal voting rights per share for shareholders of each class of common stock. The PSE may waive this requirement, however, if in its judgment the application merits favorable consideration.[18] The PSE proposes to eliminate this requirement.

In December 1986, the Amex filed a rule proposal, subsequently withdrawn,[19] to eliminate its restrictions on the issuance of disparate voting rights stock.[20] Currently, Section 122 of the Amex *Company Guide* prohibits the listing of non-voting common stock. It does, however, permit the listing of common stock having less than full voting rights.[21]

On March 13, 1987, the NASD sent a letter to the Commission in support of a uniform rule embodying the principle of equal voting rights for all equity security markets with certain exceptions.[22] A

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[12] These conditions were: (1) Approval by two-thirds of all shares; (2) if the issuer has a majority of independent directors, approval by a majority of such directors, or, if the issuer did not have such a majority, approval by all independent directors; (3) a voting differential ratio no greater than one to ten; and (4) the holders of the two classes of common stock would hold substantially the same rights except for voting power per share. NYSE Subcommittee on Shareholder Participation and Qualitative Listing Standards, *Initial Report—Dual Capitalization* ("Subcommittee Report") (January 3, 1985).

[13] *Impact of Corporate Takeovers: Hearings Before the Subcomm. on Securities of the S. Comm. on Banking, Housing & Urb. Affs.* 99th Cong., 1st Sess. 1110–234 (1985).

[14] The Amex's listing standards regarding voting rights are less stringent than those of the NYSE. *See* text accompanying notes 20–21, *infra*. Currently, the NASD has no restrictions regarding voting rights.

[15] In 1985, H.R. 2783, the Shareholder Democracy Protection Act, was introduced by Congressman John D. Dingell. Identical legislation, S. 1314, was introduced by Senators D'Amato, Metzenbaum, and Cranston. Neither proposal was reported out of Committee. In 1987, Congressman Dingell introduced the Tender Offer Reform Act, H.R. 2122, which also would establish a one share, one vote standard. *Id.*, section 3.

[16] These approval requirements are different from the conditions recommended in the Subcommittee Report. For example, that report recommended that the maximum voting ratio between different classes of common stock be ten to one. *See* note 12, *supra*.

[17] File No. SR–PSE–84–23. The proposed rule change was noticed in Securities Exchange Act Release No. 23970 (January 8, 1987), 52 FR 1686. With the PSE's consent, action on its proposal was deferred so that it could be considered in conjunction with the NYSE proposal.

[18] For example, this requirement has been waived in connection with the admission of securities to unlisted trading privileges. *See* File No. SR–PSE–84–23, Form 19b–4 at 2.

[19] The proposed rule change was noticed in Securities Exchange Act Release No. 23951 (January 2, 1987), 52 FR 1574. The Amex withdrew this rule proposal on April 24, 1987. *See* letter from Delia M. Emmons, Vice President and Secretary, Amex, to Sharon Lawson, Branch Chief, Division of Market Regulation, SEC, dated April 24, 1987.

[20] File No. SR-Amex-86–32.

[21] Permission to list common stock with less than full voting rights may be granted if the following requirements are met:

(1) The voting ratio between shares with disparate voting rights does not exceed 10 to 1;

(2) The lower voting issue, voting separately as a class, has the right to elect at least 25% of the board of directors;

(3) If the percentage of outstanding common stock represented by the higher voting stock becomes less than 12.5%, then the lower voting class acquires the right to vote with the higher voting class for the remaining 75% of the directors;

(4) No additional stock may be issued that diminishes the voting power of holders of lower voting stock; and

(5) Although not required, issuers are encouraged to provide a dividend preference for the lower voting rights stocks.

See File No. SR–Amex–86–32.

[22] Letter from Gordon S. Macklin, President, NASD, to John S.R. Shad, Chairman, SEC, dated March 13, 1987.

series of meetings were then held between the NASD, Amex and NYSE staffs, attended by the Commission's staff, to explore the possibility of a uniform rule concerning voting rights that would be proposed for adoption by the NASD, Amex and NYSE. While the Commission commends the varius self-regulatory organizations ("SROs") for their diligent efforts to develop a uniform rule, those meetings failed to result in mutual agreement. The three markets did agree, however, that, if a uniform approach were developed it should include a "grandfather" date of May 15, 1987, and so advised their members and issuers.[23] In addition, the staffs of the NASD and the NYSE agreed on the general terms of a rule that would have prohibited issuers from issuing securities or taking other corporate action that nullifies, restricts, or disparately reduces the voting rights or existing shareholders. The NASD has submitted to its members a proposal to address these matters, and the NYSE Board of Directors endorsed, in principle, a similar approach at its June 4, 1987 Board meeting.[24]

III. Summary of Comments and Testimony on the Issue of Dual Classes of Stock

As discussed above, the Commission has published notice of and requested comment on the NYSE and PSE proposals concerning disparate voting rights plans. The Commission also issued a release to solicit comments on the major issues raised by the NYSE proposal.[25] Generally, the release sought to explore the potential effect of the NYSE's proposal, possible alternatives or modifications to the proposal, and whether a unform policy, providing for either a one share, one vote standard or any other alternative approach, can or should be developed for all securities markets in the United States.[26]

Due to the significant issues raised by the NYSE's proposal, the Commission held public hearings on the proposal on December 16 and 17, 1986.[27] Over forty people presented testimony at the Public Hearings. In addition, the Commission received over 185 comment letters on the NYSE's proposal. Many of the commentators, in both their written submissions and oral testimony, addressed the issues discussed above. Although the views expressed were in reaction to the NYSE's specific proposal, many of the commentators also dealt with the overall issues raised by disparate voting rights plans. The following is a summary of written comments and oral testimony addressing these issues.[28]

A. Support the NYSE's Proposal

Fifty-three commentators supported the NYSE's proposal. The primary reasons cited in support of the proposal are the following: (1) Sound economic and policy reasons exist for permitting companies to adopt disparate voting rights plans; (2) there is no empirical evidence that the adoption of disparate voting rights plans affects share prices adversely; and (3) corporate governance matters, such as shareholder voting rights, fall within the realm of state rather than federal control. These concepts are discussed in more detail below.[29]

Several commentators supported the NYSE's proposal because they believe the NYSE's current one share, one vote policy places an "unreasonable restriction" on the ability of management to withstand a hostile tender offer [30] or for a family of controlling shareholders to maintain family control of a company that, in order to expand, needs additional capital.[31] Furthermore, the Committee of Publicly Owned Companies notes that companies have used dual classes of common stock to: (1) Facilitate the successful absorption of an acquired company (*e.g.*, GM's classes E and H); (2) protect the editorial independence of newspapers (*e.g.*, *The New York Times* and *The Wall Street Journal*); and (3) attract investors to purchase shares of small and medium-sized companies by issuing shares with fewer voting rights but greater dividend rights.[32]

Moreover, other commentators point out that there is evidence that, on average, stock prices are not adversely affected as a result of the adoption of disparate voting rights plan.[33] The Department of Justice reached this conclusion based on various academic studies.[34] These studies, in various ways, examined the effect on share price of the announcement or implementation of a dual class recapitalization. Generally, these and other studies found that, on average, share price does not appear to be affected by the creation of limited voting

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[23] *See* Letter from John J. Phelan, Chairman, NYSE, to Chief Executive Officers of NYSE Listed Companies, dated May 8, 1987; letter from Benjamin D. Krause, Senior Vice President, Securities Division, Amex, to Amex-Listed Companies, dated May 20, 1987; and Press Release from NASD, dated May 15, 1987.

[24] The texts of the NASD and NYSE draft rules have been placed in public File No. S7-22-87.

[25] *See* Securities Exchange Act Release No. 23803 (November 13, 1986), 51 FR 41715 ("November Release").

[26] In particular, the Commission requested comment on:

1. Whether the NYSE should be required to retain its one share, one vote rule;

2. Whether the NYSE's proposed standards for allowing dual classes of stock were adequate or whether they should be modified to include, for example:

(a) periodic reaffirmation of the dual class stock by independent directors and/or shareholders,

(b) a two-thirds vote of shareholders, and

(c) a minimum level of voting participation for some or all classes of common stock;

3. Whether a uniform one share, one vote policy should be applicable to all exchange-listed and NASDAQ-quoted securities; and

4. Whether a uniform one share one vote policy should be promulgated that would

(a) exempt certain types of companies, such as growth or unseasoned companies, or

(b) distinguished between situations where shareholders lose voting privileges (*i.e.*, so-called "disenfranchisement" situations) and cases where a purchaser of stock never expects to have equal voting rights.

[27] Hearings Before the Securities and Exchange Commission on "One Share, One Vote" (hereafter referred to as "Public Hearings.").

[28] The Commission staff has prepared a separate document containing a detailed summary of all written comments and oral testimony. This document, along with the comment letters and transcripts of the testimony, is available in File Nos. SR-NYSE-86-17 and 4-308 at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

[29] The comments regarding the role of state law are summarized in section III.C., *infra*, concerning Commission authority to act on the proposal.

[30] Statement of Charles P. Johnson, Chairman of the Board, General DataComm Industries Inc., dated December 5, 1986, at 2. *See also* Statement of American Family Corporation, dated December 2, 1986, at 4; Statement of the National Association of Manufacturers, dated December 4, 1986, at 6.

[31] *See, e.g.*, Letter from R. Zimmerman, Chairman and Chief Executive Officer, Hershey Foods Corporation ("Hershey"), to Jonathan G. Katz, dated December 1, 1986; Statement of Warren H. Phillips, Chairman of the Board, Dow Jones and Company, Inc. ("Dow Jones"), to Secretary [of the Commission], dated December 2, 1986; and Fischel, *Organized Exchanges and the Regulation of Dual Class Common Stock* (March 1986), *reprinted in*, 54 *U. Chi. L. Rev.* 119 (1987) ("Fischel Study," submitted in conjunction with written testimony of Gordon S. Macklin, Chairman, NASD).

[32] Letter from B. M. Siegel, Executive Director, Committee of Publicly Owned Companies, to Jonathan G. Katz, dated November 5, 1986. *See also* Dow Jones Statement, *supra* note 31, and Letter from Elmer W. Johnson, Vice President and General Counsel, GM, to Jonathan G. Katz, dated December 4, 1986. Several commentators noted that management already can take a company private, thereby divesting minority shareholders of their voting rights. *E.g.*, Letter from Joseph D. Hansen, Chairman, Committee on Securities Regulation, New York State Bar Association ("New York Bar Association") to Jonathan G. Katz, dated December 4, 1986.

[33] *E.g.*, Comments of the U.S. Department of Justice, dated December 5, 1986; Fischel Study, *supra* note 31, 54 *U. Chi. L. Rev.* at 131.

[34] *See* Department of Justice Comments, *supra* note 33, at 13, citing Partch, *The Creation of a Class of Limited Voting Common Stock and Shareholders Wealth* (unpublished) (forthcoming in *J. Fin. Econ.*) ("Partch Study"); and Lease, McConnell & Mikkelson, *The Market Value of Differential Voting Rights in Closely Held Corporations*, 57 *J. Bus.* 443 (1984).

common stock.[35] Indeed, one commentator implied that the stock of a company having dual classes of stock could be valued at a premium price because management would operate more effectively without the threat of a takeover.[36]

B. Disapprove the NYSE Proposal

One hundred and twelve commentators stated that the Commission should disapprove the NYSE's proposal. Thirty-eight of those responses merely indicated opposition to the NYSE's departure from its one share, one vote rule and did not address whether any possible modifications to the proposal would be desirable or whether other marketplaces should be required to adopt a one share, one vote rule.

Of the 112 commentators opposed to the NYSE's proposal, 39 stated that the NYSE proposal should be disapproved and a uniform one share, one vote requirement should be established for all markets.[37] In addition, a substantial majority of speakers at the public hearings recommended disapproval of the NYSE's proposal and suggested that a uniform one share, one vote requirement be developed. In particular, the academicians, institutional investors, shareholder groups, state securities regulators, and individual shareholders, with few exceptions, strongly supported the development of a uniform rule. The NYSE and the Amex both supported a uniform rule.[38]

The commentators and speakers offered several reasons why they believe disparate voting rights plans should be prohibited. First, they believe that the shareholder vote is an essential element of corporate accountability.[39] Under this view, disparate voting rights plans could allow a small group of insiders to obtain or maintain effective control of a corporation. Disparate voting rights plans can isolate management from the possibility of direct shareholder action (*i.e.*, proxy contests) and also frustrate the workings of other techniques in the market for corporate control (*i.e.*, tender offers) by insulating management from a hostile acquisition.[40]

Commentators believed several negative consequences would flow from such a consolidation of control. For example, management would become more inefficient without the discipline of the market for corporate control,[41] and shareholders would be deprived of the potential premiums which have been associated with acquisitions. Also, some commentators were concerned that, in the absence of an effective, credible system of management accountability (*e.g.*, proxies or acquisitions), government inevitably would be called upon to set standards for management actions in a manner which probably would be less effective than the current private methods of ensuring management accountability.[42]

A second major reason offered in support of a uniform one share, one vote rule was the commentators' belief that a shareholder vote to ratify a disparate voting rights plan does not necessarily provide an effective safeguard against management abuse nor a legitimate means to protect shareholders' rights.[43] In his testimony, for example, Professor Gordon explained what he called "collective action" problems,[44] which encompass the inherent difficulty of small shareholders acting individually to influence the direction of a vote. In particular, he argued that frequently dual class stock is made available to shareholders in a fashion (*e.g.*, with so-called "dividend sweeteners") which makes it advantageous (or less risky) for a shareholder to accept non-voting or lower voting stock, rather than object to the recapitalization.[45] In addition, commentators noted that many corporate pension plan managers may be placed under substantial pressure by their client corporations not to vote against proposed corporate recapitalization.[46] Similarly, Professor Ruback emphasized the potentially coercive nature of a corporate recapitalization using dual classes of stock. He explained that, although individual shareholders who approve a disparate voting rights plan may know with certainty that they will lose voting power, they also may conclude that by so acting they avoid potentially greater losses.[47] If a shareholder votes to give up voting power, he or she may lose expected takeover premiums, and is subject to losses from "less efficient management as insiders enjoy the benefits from being insulated from the market [for] corporate control."[48] If a shareholder is in the minority voting against the disparate voting rights plan, however, at best he or she may be disenfranchised unwillingly.[49] At worst, a situation may arise, under the NYSE proposal, where the management decides that a dual class recapitalization is appropriate, a simple majority of outstanding shares approves a disparate voting rights plan, as required by state law, but not the majority of eligible "public

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[35] *See* Statement of Megan Partch, Professor, University of Oregon, dated December 16, 1986 at 4, Testimony of Professor Mikkelson, Professor, University of Oregon, Public Hearings, at 90–91; Fischel Study, *supra* note 31, 54 *U. Chi. L. Rev.* at 131–32.

[36] *See* National Association of Manufacturers Statement, *supra* note 30, at 5.

[37] The remaining 35 commentators were in favor of disapproving the NYSE's proposal but offered suggestions on modifications or exceptions to the proposal if it were approved. These modifications included: increased disclosure, a sunset provision, compensation for disenfranchised shareholders, a supermajority approval provision, and narrowing the NYSE's definition of public shareholder.

[38] In a letter to John S.R. Shad, Chairman of the Commission, dated September 16, 1986, John Phelan, Chairman of the NYSE, stated that, notwithstanding the NYSE Board of Directors' decision to allow disparate voting rights stock under certain conditions, the Board continues to support the one share, one vote concept and believes it should be preserved. He stated that the decision by the Board to permit dual class stock reflects, among other things, "a recognition that the [NYSE] can neither dictate corporate governance standards for other self-regulatory organizations, nor unilaterally maintain such standards not required by other market centers in today's competitive environment." *See also* letter from Richard D. Scribner, Senior Executive Vice President, Amex, to Jonathan G. Katz, dated December 19, 1986.

[39] *See, e.g.*, Letter from William S. Cohen, U.S. Senator, to Jonathan G. Katz, dated December 5, 1986; testimony of T. Boone Pickens, Chairman, United Shareholders Association, Public Hearings, at 348–49.

[40] *See, e.g.*, Statement of Elliott J. Weiss, Professor of Law, Benjamin N. Cardozo School of Law, dated December 29, 1986, at 9.

[41] *See, e.g.*, Senator Cohen Letter, *supra* note 39, and Weiss Statement, *supra* note 40, at 9–10.

[42] *E.g.*, Letter from Jeffrey N. Gordon, Associate Professor of Law, New York University, to Jonathan G. Katz, dated December 3, 1986, at 9.

[43] A substantially similar argument was advanced in Note, Dual Class Recapitalization and Shareholder Voting Rights, 87 *Colum. L. Rev.* 106, 124 (1987) ("The recapitalization defense impermissibly transfers control of a corporation from the shareholders to management. The vote by which the shareholders approve the transfer is ineffective because the individual shareholders are insufficiently informed about the value of their voting rights.")

[44] Testimony of Jeffrey N. Gordon, Public Hearings, *supra* note 42, at 83.

[45] Similarly, Professor Ruback pointed out that management sets the agenda and uses corporate funds to induce shareholders to relinquish their vote. Testimony of Richard Ruback, Assistant Professor, Massachusetts Institute of Technology, Public Hearings, at 114, 121.

[46] Professor Weiss noted that institutional investors are also subject to collective action forces, because their voting decisions often reflect the interests of investment managers voting the shares rather than the interests of the beneficial owners of those shares. Testimony of Professor Weiss, Public Hearings, at 106.

See Report from the Chairman of the Subcomm. on Tele., Consumer, Pro. and Fin., *Restructuring Financial Markets: The Major Policy Issues*, 99th Cong., 2d Sess. 273 (Comm. Print 1986).

[47] Ruback Testimony, *supra* note 45, at 94, 96–97.

[48] *Id.* at 96.

[49] Gordon Testimony, *supra* note 42, at 9–10.

shareholders" as required by the NYSE proposal. Accordingly, the disparate voting rights plan is approved under state law but the company is delisted from the NYSE.[50] In particular, exchange offer recapitalizations have been argued to be "inherently coercive" and present outside shareholders with a Hobson's choice of exchanging high vote stock with low dividends for low vote stock with high dividends, especially if the high vote stock cannot be freely transferred. To avoid the risk that enough outside shareholders will make the exchange so that retained high vote stock will be "ineffective," shareholders who oppose the voting rights plan nevertheless may feel compelled to exchange their shares for low vote stock.[51]

Some commentators also pointed out the disenfranchising effect of dual class recapitalizations involving the issuance of new super voting stock with restrictions on transferability. In this situation, shareholders are provided with a dividend of super voting stock that is convertible into regular common but has restrictions on transferability. Management, and major shareholders, who do not intend to sell their stock, will retain the super voting stock, but most shareholders eventually will convert their super voting stock into regular common stock as they prepare voting stock over time will increase disproportionately to their equity stake in the company.

Many academic commentators also disputed the significance of the studies that concluded that disparate voting rights plans do not reduce significantly shareholder wealth, and therefore should be permitted.[52] Such commentators note that the disparate voting rights plans considered in those studies, for the most part, merely perpetuate an existing control relationship. Accordingly, these plans may not be truly predictive of share price effects when voting rights are reduced in companies where management did not enjoy a control position in the companies' shares.[53] For example, Professor Gordon notes that the findings in the Partch Study may be a result of the fact that most of the companies studied already had large insider holdings that would inhibit hostile takeovers and, therefore, there was no attendant loss by shareholders of the potential gains from hostile takeovers.[54]

Other academic commentators argue that the studies do not reflect the diminution of shareholder wealth that occurs when shareholders lose the control premium aspect of their stock. In his comment, Professor Gilson contrasts two forms of transfer of control, the leveraged buy-out ("LBO") and the dual class recapitalization.[55] He notes that in the LBO situation, often characterized by companies with a small insider group, shareholders usually receive a larger cash premium for their shares. In contrast, shareholders in dual class recapitalizations usually receive only a small dividend sweetener at best rather than the potential control premium value of their stock. Professor Gilson argues that this causes the company's control group to impose a wealth transfer from public shareholders to themselves by depriving the public shareholders of their voting rights without having to pay a marketplace-determined control premium. For this reason, Professor Gilson suggests that studies conclusing that shareholder wealth is not diminished by a recapitalization are not necessarily relevant, because recapitalizations nonetheless permit transactions that benefit only the dominant inside group, with no payment or only a small payment to the rest of the shareholders. Thus, studies that conclude that disparate voting rights plans are benign may reach an unwarranted conclusion because they fail to compare the stock price effects of such plans with their closest effective substitute, *i.e.*, a leveraged buy-out or repurchase that could afford a substantial premium. Professor Gilson concludes that dual class transactions should be prohibited, but not the public offering by an existing company of a new class of limited voting or non-voting stock, because this allows new capital to be raised without diluting the control of the current shareholders. "[S]uch a public sale neither reduces the voting rights of existing public shareholders, nor strengthens the position of the dominant group" and thus is not coercive.[56]

Many of the commentators who were in favor of disapproving the NYSE's rule proposal also recognized the difficult competitive position the NYSE has been placed in, and indicated support for a universal one share, one vote rule across all marketplaces.[57] They believe that the Commission should initiate rulemaking to require all exchanges and the NASD[58] to adopt a one share, one vote listing requirement.

These commentators offered several ideas for exemptions to such a uniform rule. For example, Senator Metzenbaum suggested that the rule take into consideration the special circumstances of start-up companies, family-owned companies and corporate spin-Offs. In addition, he believes the rule should provide a reasonable period of time for non-complying companies to conform their procedures. The Section of Corporation, Banking and Business Law of the American Bar Association ("ABA") suggested that if the Commission were to adopt a uniform rule, it should exempt: (1) Foreign issuers whose voting rights are lawful in the jurisdiction of incorporation or where its principal place of business is located; (2) shares issued in connection with a financing or acquisition; (3) disparate voting rights plans existing as of the date of effectiveness of any such rule; (4) disparate voting rights plans in

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[50] Ruback Testimony, *supra* note 45, at 124–25, and Gordon Testimony, *supra* note 42, at 9. For evidence regarding the impact of listing on or delisting from the NYSE, *see e.g.*, McConnell & Sanger, The Puzzle in Post-Listing Common Stock Returns, 42 *J. Fin.* 119 (1987) (summarizing prior studies as concluding that: "First, stocks appear to rise in price immediately prior to listing. Second, stock prices appear to decline immediately thereafter."); Sanger & McConnell, Stock Exchange Listings, Firm Value, and Security Market Efficiency: The Impact of NASDAQ, 21 *J. Fin. & Quantitative Anal.* 1, 22 (1986) (in the post-NASDAQ period, there is a statistically insignificant reaction to impending exchange listings). Earlier, pre-NASDAQ studies include Furst, Does Listing Increase the Market Price of Common Stocks, 43 *J. Bus.* 174, 179 (1970) (belief that company will benefit from NYSE listing through obtaining a higher market price not confirmed); Van Horne, New Listings and Their Price Behavior, 25 *J. Fin.* 783, 784 (1970) (listing does not appear to have an effect on stock prices); and O'Donnell, Case Evidence on the Value of a NYSE Listing, *MSU Business Topics*, at 15–21 (Summer, 1969) (listing enhances stock prices).

[51] Ruback Testimony, *supra* note 45, at 94; Gordon Statement, *supra* note 42, at 9.

[52] *See* notes 33–35 *supra* and accompanying text.

[53] *See* Ruback Testimony, *supra* note 45, at 96–97.

[54] In Professor Partch's study, she examined the share price effect of recapitalizations on 44 publicly traded companies that had created dual classes of stock. In 24 of these companies, insiders controlled 50% or more of the equity before the recapitalization occurred. In 13 of the cases studied, insiders held 30 to 49% of the equity before the recapitalization occurred. In only one instance did insiders control under 10% of the equity. Partch Study, *supra* note 34, at Table A.

[55] *See* Working Paper by Ronald J. Gilson, Professor, Standford Law School, dated January 4, 1987 ("Gilson Paper").

[56] *Id.* at 42.

[57] *See, e.g.*, Letter from Howard M. Metzenbaum, United States Senator, Committee on the Judiciary, to Jonathan G. Katz, dated December 4, 1986. *See also* letter from Edward V. Regan, State Comptroller, State of New York, to Jonathan G. Katz, dated December 5, 1986. As noted above, 39 of the 112 commentators in favor of disapproving the NYSE proposal supported a universal one share, one vote rule for all markets.

[58] Certain of these commentators recommended that any rulemaking focus, with respect to the NASD, only on National Market System companies. The term "national market system security" is defined in Rule 11Aa2–1 [17 CFR 240. 11Aa2–1] to mean "any equity security which is designated as qualified for trading in a national market system . . . ."

existence at the time the issuer makes an initial public offering of its shares; and (5) any disparate voting rights plan containing a sunset provision.[59]

C. Commentator's View of the Commission's Authority to Act

Twenty-seven commentators addressed whether the Commission had the authority to act in this area outside of simply approving the NYSE's proposal. A majority of the academic commentators and speakers generally believe that the Commission has the authority to disapprove the NYSE's proposal and require the SROs to adopt a uniform rule. For example, former Commissioner Karmel argues that Section 19 of the Act provides the Commission with authority to amend SRO rules, and that, because listing standards are SRO rules, the SROs cannot change their listing rules without Commission approval.[60]

Furthermore, Professor Karmel believes that Commission authority to establish uniform standards can be derived from the proxy requirements of section 14 of the Act,[61] which presumes the existence of shareholders' right to vote and entrusts the exchanges with the task of according fair suffrage, and the Williams Act,[62] which establishes a principle of neutrality in the Commission's regulation of tender offers. Finally, Professor Karmel reasons that the Commission also can, pursuant to Section 11A of the Act,[63] identify trading characteristics, such as voting rights,[64] as criteria for securities qualified for trading in the national market system.

Professor Seligman also argues that fair corporate suffrage is a concept that has been emphasized to different degrees in the Act, the Securities Acts Amendments of 1975 ("1975 Amendments"),[65] and the Williams Act. He concludes that the protection inherent in proxy regulations and the requirement of independent directors would be destroyed without shareholders having the right to vote.[66]

Andrew Klein, former Director of the Division of Market Regulation, argues that exchange listing and delisting standards are rules of an exchange under the Act and that the Commission always has had the power to amend these rules, as well as similar rules of the NASD.[67] Mr. Klein specifically addressed the ABA's contention [68] that section 19(a) does not provide the exchanges any authority to enforce compliance by issuers with their rules, the Act or rules thereunder and that, similarly, section 19(h) does not provide the Commission the authority to sanction an exchange for failure to enforce compliance by an issuer with its rules, the Act or rules thereunder. In Mr. Klein's view, this ignores the fact that SROs are required under sections 19(g) and (h) to comply with the Act and all of their own rules. Accordingly, SROs have a duty to comply with their own listing and eligibility rules and must refuse to list or quote securities that fail to meet their initial and continued listing or quotation criteria. In addition, a variety of other commentators also argued that the Commission has authority to act in this area.[69]

In contrast, several commentators took the position that the Commission's ability to act in this area is limited either as a matter of authority or policy. They argue that, because the states traditionally have regulated corporate governance matters, such as voting rights,[70] the Commission's role in regulating issuers is limited to imposing disclosure requirements.[71] For example, former Commissioner Sommer, representing the Alliance for Corporate Growth, testified:

> The singular characteristic of the state laws governing [the distribution of voting power among contributors of capital to corporations] has been the freedom accorded entrepreneurs, contributors of capital, promoters and other concerned with the organization and structure of corporations to fashion the relationship between capital and control in the manner best suited to the enterprise . . . .[72]

Similarly, Senator Kassebaum argued that, because corporate characters are issued under the authority of the state of incorporation, restrictions placed on matters that are inherently fundamental to a corporation's existence, such as governance and capitalization, should be the responsibility of the state of incorporation.[73]

The ABA set forth the most extensive arguments that the Commission lacked authority to require the exchanges and the NASD to impose a one share, one vote listing standard. The ABA argues that if the Commission were to impose uniform voting standards across all securities markets, it would, in effect, be establishing a federal corporation law of voting rights. In the ABA's view, such an approach is beyond the Commission's authority under section 19(c).[74] The ABA primarily looks to statutory changes and the accompanying legislative history of the 1975 Amendments. First, the ABA noted that former section 6(c) was replaced by the 1975 Amendments with section 6(b)(5), which provides that—

> The rules of the exchange [must not be] designed to . . . regulate by virtue of any authority conferred by this title matters not

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[59] Letter from Lewis S. Black, Jr., Chairman, Federal Regulation of Securities Committee, and Kathleen A. Warwick, Chairman, Task Force on NYSE Listing Requirements, ABA, to Jonathan G. Katz, dated December 31, 1986. The ABA letter primarily addresses the Commission's authority to disapprove the NYSE's proposal and adopt a uniform standard. *See*, text accompanying notes 74–78 *infra*.

[60] Testimony of former Commissioner Roberta Karmel, Professor of Law, Brooklyn University School of Law, Public Hearings, at 110. Former Commissioner Longstreth also supported this argument. Longstreth, Unbundled Vote: Last Nail or overture to change, *Legal Times*, May 6, 1985, at 22.

[61] 15 U.S.C. 78n.

[62] Sections 13(d) and (e) and 14(d)–(f), 15 U.S.C. 78m(d) and (e) and 78n(d)–(f).

[63] 15 U.S.C. 78k–1.

[64] Karmel Testimony, *supra* note 60, at 158.

[65] Public Law 94–29, 89 Stat. 97 (1975).

[66] Professor Seligman indicated that the Commission probably has the authority to impose a uniform rule under either section 11A, section 14(a) or the Williams Act. Testimony of Joel Seligman, Professor, University of Michigan Law School, Public Hearings, at 101–02, 109.

[67] Letter from Andrew M. Klein to John S.R. Shad, Chairman, SEC, dated February 19, 1987.

[68] *See* text accompanying notes 76–77, *infra*.

[69] *See, e.g.*, Testimony of Marc I. Steinberg, Professor, University of Maryland School of Law, Public Hearings, at 104 ("[T]he SEC clearly has the authority under section 19(c) of the [Act], to require the exchanges and the over-the-counter NASDAQ market to have a one share, one vote rules."); Testimony of F. Daniel Bell, III, President, North American Securities Administrators Association, Public Hearings, at 423–24 ("We do believe that under the [Act], particularly with regard to the proxy solicitation rules and the disclosure requirements . . . there is clear precedent and authority . . . [for the Commission to act]."

[70] Statement of Senator Kassebaum, dated December 5, 1986, at 1; New York Bar Association Letter, *supra* note 32 at 1; and Statement of Richard H. Troy, Vice President, American Society of Corporate Secretaries, Inc. ("ASCS"), dated December 17, 1986, at 5–6. In this connection, commentators frequently note a remark by Stephen Paradise, former Assistant Counsel to the Senate Banking, Housing and Urban Affairs Committee, concerning adoption of the 1975 Amendments:

> [I]n drafting these new sections of the law which give the SEC power over exchange rules, I can tell you there never was any intent to go into this [corporate governance] area. The Congress would look at it as a grave breach of Congressional intent, and that is all I intend to say about that. Symposium on Federal and State Roles in Establishing Standards of Conduct for Corporate Management, 31 *Bus. Law. 1091, 1096 (1975)*.

[71] ASCS Letter, *Supra* note 70, at 6; and Testimony of A.A. Sommer, Jr., on behalf of Alliance for Corporation Growth, Public Hearings, at 383–84.

[72] Statement of Alliance for Corporate Growth, dated December 17, 1986, at 5–6.

[73] Senator Kassebaum Statement, *supra* note 70, at 1. *See also* New York Bar Association Letter, *Supra* note 32, at 2–3, and National Association of Manufacturers Statement, *supra* note 30, at 2–3.

[74] ABA Letter, *supra* note 59, at 3–4.

related to the purposes of this title or the administration of the exchange.[75]

The ABA believes that the legislative history indicates that Congress intended to limit the exchanges' use of their statutory self-regulatory authority to those areas directly related to the purposes of the Act. From this, the ABA concludes that exchange listing requirements are private contractual agreements not generally subject to SEC review.

The ABA believes this conclusion is reinforced by the addition of sections 19 (g) and (h) by the 1975 Amendments. The ABA noted that section 19(g) does not provide the exchanges any authority to enforce compliance by issuers with their rules, the Act or rules under it. Similarly, in the ABA's view, section 19(h) does not provide the SEC authority to sanction an exchange for failure to enforce compliance by an issuer with the exchange's rules, the Act, or rules under it. The ABA interprets sections 19 (g) and (h) of the Act and the legislative history accompanying it as signifying Congressional intent to take the exchanges out of the business of enforcing compliance by issuers and, therefore, taking away this area of responsibility from the Commission.[76] Under this view, the Commission's authority to review listing standards is limited to the purpose of ensuring that they do not permit unfair discrimination between issuers.[77] Finally, the ABA does not believe that the Commission's authority under Section 11A of the Act to develop a national market system provides it with authority to mandate a uniform voting rights policy.[78]

IV. Discussion

A. Proposed Rule 19c–4

The NYSE's proposal raises many difficult and complex issues regarding the regulation of voting rights plans under the federal securities laws. As the broad range of comments and testimony discussed above indicates, commentators have expressed concern over the implications of the NYSE's proposed modification of its one share, one vote rule for corporate accountability, tender offer defensive tactics, competition among the SROs and the rights of majority and minority shareholders, among other matters.

Until recently, disparate voting rights plans were primarily used by smaller companies, in which the founders had, for example, gone public with a weighted voting scheme to allow them to maintain control as the company grew. In the 1980s, however, corporate bidders targeted larger and larger companies, and disparate voting rights plans became an additional defensive tactic in response to the threat of possible hostile tender offers. At the same time, competition for listings increased among the NYSE, Amex and NASD.[79] The NYSE cited this new environment as a reason for submitting a rule proposal to allow listed companies to adopt disparate voting rights plans.[80] Accordingly, the NYSE argues that, but for these competitive pressures, it would prefer, on balance, to retain a one share, one vote policy.

The Commission believes that before it determines whether the NYSE and PSE proposals should be approved, and in light of the issues raised by the public hearings, it would be appropriate to consider fully the alternative of adopting a uniform policy concerning disparate voting rights plans. In this connection, the Commission believes additional focus on the impact of different means of distribution of disparate voting stock is appropriate. Although the Commission does not believe that low-voting or non-voting stock is *per se* inappropriate, it is concerned that, in many circumstances, the method of issuing low-voting or non-voting stock may disenfranchise existing shareholders in a manner calculated to avoid the discipline of the market and that is inconsistent with the requirements of the Act.

The Commission preliminary agrees with the suggestion of many commentators that there may be valid business and economic reasons for the issuance of common stock with limited voting rights in arm's-length transactions. For example, the controlling shareholders of a closely held corporation may only be willing to raise equity capital through an initial public offering if they are assured of continuing control of the corporation. The addition of equity capital may be helpful to that enterprise and yet in no way disadvantage shareholders who purchase shares with limited voting rights with full knowledge of their lack of voting power. The market may, in fact, value the assurance of the continuity by a management or founding group that has the market's confidence as particularly well-suited to further the corporation's affairs. Similarly, a public corporation where management enjoys effective voting control may wish to raise equity capital for expansion through issuance of non-voting or lesser voting stock rather than burdening the company with additional debt. Again, all shareholders purchasing a new issue of limited voting stock in the public offering are fully aware of their lack of voting power, both individually and collectively, at the time they purchase the stock. Finally, the Commission preliminarily believes that the issuance of lesser- or non-voting stock in connection with a business combination, where the lesser-voting stock provides for dividend payments or other substantive rights that are based on the assets or performance of the acquired company, meets legitimate business needs.

The Commission also preliminarily believes, however, that more troubling questions are raised by certain disparate voting rights plans, including those involving the issuance to existing shareholders of super-voting shares or rights, the issuance of non- or low-voting shares through an exchange offer for the outstanding higher voting shares or the adoption of a capped voting rights plan or a tenure voting plan. In these cases, shareholders generally have purchased stock in a company at a time when, in the aggregate, public shareholders had voting control of the company or at least the potential to obtain control in the future if insiders sold their shares. As a result of the disparate voting rights plan, this actual or prospective control may be lost and public shareholders may be, in effect, disenfranchised. Thus, the Commission's proposal focuses on the process by which certain disparate

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[75] 15 U.S.C. 78f(b)(5).

[76] ABA Letter, *supra* note 59, at 9.

[77] *Id.* at 13. This line of analysis essentially mirrors that of Alton Harris, minority counsel for the Senate Subcommittee on Securities in 1975. Harris, SEC Holds Hearing on Proposal to Alter Rule on Voting Stock, *Legal Times*, Dec. 22, 1986.

[78] *Id.* at 14–15. Former Commissioner A.A. Sommer stated his opinion that the Commission's listing standard oversight authority extends only to quantitative (*e.g.* float requirements, minimum capitalization, etc.), not qualitative, requirements. Sommer Testimony, Public Hearings, *supra* note 70, at 383.

[79] At the very least, some issuers were sufficiently concerned about the potential effects of a hostile acquisition that they were willing to adopt disparate voting rights plans, even if such action meant that they would have to forego a NYSE listing, because they were otherwise satisfied with the quality of the markets available on the Amex and NASDAQ.

[80] It is important to note the potential significance of the NYSE proposal. For example, although securities with disparate voting rights have been traded on the Amex and quoted on NASDAQ, the major wealth of shareholders continues to be represented by NYSE-listed securities. As of December 31, 1986, the market value of shares listed on the NYSE was approximately $2.2 trillion, whereas the combined market value of Amex and NASDAQ securities was only $405.7 billion. Thus, the NYSE proposal has the potential for much greater consequences that the ability of generally relatively smaller companies to list non-voting stock on the Amex or have such stock authorized for quotations on NASDAQ.

voting rights plans are created, not the issuers's capital structure, *per se*.

The Commission recognizes that, under state law, disparate voting rights plans generally require a shareholder vote. Moreover, the NYSE proposal assures that a majority of the "public" shareholders must concur in the proposal. Nevertheless, the Commission is concerned that the effect of that vote is to disenfranchise permanently the minority shareholders who vote against such a proposal. Those shareholders purchased shares in the company with the understanding that the shares would be accompanied by meaningful voting rights. The diminution or limitation of this right raises serious concerns under the investor protection and fair corporate suffrage policies of sections 6(b)(5), 15A(b)(6) and 14 of the Act.

The Commission also is aware of the "collective action" limitations noted by commentators that may make defeating an issuer proposal difficult even under the NYSE proposal. In particular, management sets the agenda and can use corporate funds to lobby shareholders for its proposal. For example, shareholders might approve a disparate voting rights plan in order to avoid increased use of debt financing by the corporation proposing the plan, even if they would have preferred that the corporation raise funds by issuing low-voting stock, if the latter alternative is not made available by management.[81] The Commission also takes note of concerns over the potential for pressure to be placed on managers of corporate pension plans in the shareholder voting process.[82] These collective action concerns do not, in the Commission's view, suggest that shareholders would invariably be powerless to defeat voting rights plans under an approach such as the NYSE proposal. The shareholder voting process may not be fully effective to prevent adoption of voting rights plans that disenfranchise shareholders without appropriate compensation for their loss of voting rights.

The Commission believes that the empirical evidence regarding the stock price impact of disparate voting rights plans requires further consideration. On the one hand, studies indicate that lower voting stock trades at a discount from superior voting stock of the company.[83] On the other hand, economic studies generally have not demonstrated any statistically significant wealth reductions, on average, measured relative to pre-existing prices, for existing shareholders resulting from the adoption of voting rights plans.[84] Such studies do not disprove, however, the existence of significant negative price effects for some companies, perhaps as a result of disenfranchisement, coupled with positive price effects for other companies for whom disparate voting rights plans serve valuable purposes.[85] Further empirical work may be useful in establishing the extent to which certain dual class voting structures are beneficial, or at least not harmful to stockholders, while others may have adverse price effects, perhaps because they disenfranchise stockholders in a manner that raises concerns under the Act. In addition, the unanimous opposition to the NYSE proposal on the part of those public pension plan managers either commenting or appearing at the hearings suggests that the collective action limitations noted above can result in the disenfranchisement of shareholders without remuneration comparable to that which would result from market-mediated transactions such as buy-outs or repurchases.

Finally, the Commission recognizes the competitive pressures that have led the NYSE to propose to modify its rule. Through facilitating the development of a national market system, the Commission has been a strong supporter of competition among markets. The Commission believes that this competition enhances market efficiency and reduces costs. Without suggesting that this competition inevitably results in SRO market regulators moving to the lowest regulatory common denominator, the Commission observes that many major corporations have expressed concern regarding the potential of a hostile takeover bid and that such concern may lead some corporations to adopt disparate voting rights plans as a takeover defense. The Commission concurs with the NYSE's perception that in such an environment many companies may choose to delist primarily to implement disparate voting rights plans for defensive purposes. The Commission believes that marketplace competition should emphasize price and service competition, not the provision of safe havens from hostile acquisitions.[86]

According, the Commission believes it is appropriate to commence a proceeding to add to the rules of the national securities exchanges that make transactions reports available pursuant to Rule 11Aa3–1[87] and national securities associations to require the delisting or deauthorization of issuers who issue securities or take other corporate action that results in the disenfranchisement of existing shareholders. The proposed Rule 19c–4 reflects concepts agreed to in principle by both the NASD and NYSE Boards.

Under proposed Rule 19c–4, the rules of exchanges and associations, respectively, would be amended to prohibit them from listing or continuing to list, or from authorizing for or continuing quotation and/or transaction reporting through an inter-dealer quotation system, any of the common stock and equity securities of an issuer that, on or after May 15, 1987 [88] issues

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[81] Under the NYSE proposal, shareholders also may believe that NYSE listing is valuable and be concerned that if a disparate voting rights is approved by a majority of the stockholders, as required under state law, but not by a majority of the public stockholders, as the NYSE would require, the corporation will choose to adopt the plan and delist from the NYSE.

[82] *See, infra*, at 37.

[83] *See, e.g.*, Gordon Statement, *supra* note 22, at 2; Levy, Economic Evaluation of Voting Power in Common Stock, 38 *J. Fin.* 79 (1982); Lease, McConnell and Mikkelson, The Market Value of Control in Public-Traded Corporations, 11 *J. Fin. Econ.* 439 (1983); and Ruback, An Economic View of the Market for Corporate Control, 9 *Delaware J. Corp. Law* 613–25 (1984).

[84] *See* notes 34–35, *supra*.

[85] In this regard, it may be particularly important to evaluate more carefully whether these studies, and their methods of calculating net-of-market returns, fully capture the unusual nature of the companies which have adopted disparate voting rights plans in the past (*e.g.*, high-growth companies with significant insider holdings).

[86] The Commission believes that Professor Fischel's argument—that if a one share, one vote standard were desirable, marketplaces with such a standard would attract more issuers—may ignore certain agency-principal problems, recognized by Professor Fischel in other analyses, that create a fundamental conflict of interest for managers in responding to hostile takeovers. *See* Fischel Study, *supra* note 31, 54 *U. Chi. L. Rev.* at 131–32.

[87] By defining, for purposes of Rule 19c–4, a "national securities exchange" as an exchange that makes transactions reports available pursuant to Rule 11Aa3–1 under the Act, the Commission is excluding the Intermountain ("ISE") and Spokane ("SSE") Stock Exchanges from coverage under the proposed Rule. The Commission believes this is appropriate because the ISE is now dormant and the securities listed on the SSE generally are not perceived to have a widespread national investor interest. In addition, the Commission notes that, while Rule 19c–4 would not apply to the Chicago Board Options Exchange, Incorporated ("CBOE") because it currently does not trade common stocks, if, and when, the CBOE's proposed rule change (SR–CBOE–85–50) to trade stocks is approved, Rule 19c–4 would cover the CBOE.

[88] Voting rights plans adopted prior to May 15, 1987, will not be affected by proposed Rule 19c–4. In addition, the Commission believes that it is appropriate to grandfather, from the prohibitions of the Rule, those companies that have filed proxy material with the Commission regarding the adoption of voting rights plans on or prior to May 15, 1987. The Commission preliminarily believes, however, that this exception should be limited to companies who move forward in a reasonable period of time to implement their recapitalization. Companies that received shareholder approval for a recapitalization to occur at an undetermined date in

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any securities, or takes other corporate action, that has the effect of nullifying, restricting, or disparately reducing the voting rights of shareholders of an outstanding class or classes of common stock registered pursuant to section 12 of the Act.[89] Proposed Rule 19c–4 also will provide a certain degree of flexibility by permitting an exchange or association to issue rules, subject to Commission review pursuant to section 19(b) of the Act, that would specify the types of securities issuances or corporate actions covered by, or excluded from, the prohibitions contained in Rule 19c–4.[90]

The inclusion of the phrase "other corporate action" is intended, in part, to make clear that the attachment of restrictive covenants on shares of existing stock which would immediately or in the future nullify, restrict, or disparately reduce the voting rights of some or all of the holders of common stock also would require delisting. An example of a situation which the Commission believes would require delisting is if an issuer issued superior voting shares as stock dividends.[91] Similarly, the Rule would require delisting or deauthorization if the issuer recapitalized in a manner whereby existing shareholders are offered lower voting stock with higher dividends in return for stock with higher voting rights. In these cases public shareholders who, in the aggregate, enjoyed voting control of a company, would have their voting control devalued or eliminated. In addition, the Rule would require delisting if the issuer issued securities or took other corporate action that conditions the voting rights of shares based upon the amount of shares owned or period of time the shares have been held.[92] The Commission preliminarily believes that the above transactions may seriously disadvantage public investors, and be otherwise inconsistent with the purposes of the Act.

On the other hand, the Commission preliminarily believes that the terms of the Rule generally would permit initial public offerings [93] or subsequent offerings of stock with equal, lesser or restricted voting rights, because shareholders willingly purchase such shares with knowledge of the stock's limitations.[94]

Similarly, the issuance of stock with equal, lesser or restricted voting rights to effect an acquisition for a bona fide business purpose also would be permitted under proposed Rule 19c–4.[95] Moreover, traditional control provisions that are designed to provide senior securities holders (*e.g.*, debt or perferred stock) with added protection or control in the event of a corporation's failure to meet its payment obligations regarding those securities would be unaffected.[96]

The Commission, notwithstanding its extensive discussions with the Amex, NASD and NYSE, has not identified other specific instances where there is a bona fide business purpose for the issuance of disparate voting rights securities and where such action does not act to disenfranchise existing shareholders. Nevertheless, the Commission recognizes the potential that corporate issuers may identify additional non-disenfranchising transactions. Therefore, in order to enhance clarity, the Rule explicitly recognizes that the SROs may except, by rule, any such issuances. While the SROs already have such authority under section 19(b) of the Act, subparagraph (d) of Rule 19c–4 is intended to emphasize the Commission's desire not to restrict unduly appropriate corporate action.

Under proposed Rule 19c–4, if an issuer were to issue disparate voting securities that were considered to be prohibited by the terms of the Rule, no common stock or equity securities of that issuer could be listed on an exchange or authorized to be quoted on an automated inter-dealer quotation system. The term "equity security," as defined pursuant to Rule 3a11–1 under the Act, would include limited partnership interests and any debt security convertible into common stock. The Commission requests comments as to whether Rule 19c–4 could and should be more narrowly drafted to focus exclusively on common stock and other securities directly involved in the disenfranchising actions triggering delisting. The Commission also invites comments on whether the Rule should be more broadly drawn to require the delisting of all debt securities (not only convertible debt) of an issuer that has violated the Rule's standard. Further, the Commission solicits comments on whether certain issuers or securities should be explicitly included or excluded from the proposed Rule.[97] For

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the future would not meet the grandfather requirement. The Commission believes that it would be inappropriate to extend the grandfather exception to companies who have not at least taken the step of presenting the stock issuance for shareholder vote. We note that the securities markets and the corporate community have been aware of the possibility of the Commission taking action to restrict the issuance of dual class stock at least since December 1986. Furthermore, the Amex, NASD, and NYSE have each notified their issuers that May 15 would be the grandfather date for any uniform rule proposal made by the Amex, NYSE and NASD. *See* note 23 *supra*. Thus, issuers have had ample warning concerning a possible restriction on recapitalizations. Nevertheless, the Commission recognizes that it may be difficult to undo a disparate voting rights plan. Accordingly, the Commission preliminarily believes it is in the best interest of issuers, shareholders and the marketplace to apply the prohibitions of the Rule as of May 15, 1987. The Commission specifically requests comment, however, on whether an earlier "grandfather" date would be appropriate and specifically rejects any suggestion of a later grandfather date inasmuch as the mere possibility of later date would provide an incentive for delay in these proceedings.

[89] 15 U.S.C. 781.

[90] Under section 19(b), if an exchange or association submits such a rule, policy, practice or interpretation to the Commission for review, in order to approve it, the Commission must find that such rule, policy, practice or interpretation is consistent with the protection of investors and the public interest, and, generally, in furtherance of the purposes of the Act.

[91] Usually, shareholder dividends of superior voting stock require conversion to the low-voting stock prior to transfer, thus resulting in the steady accretion of voting control to insiders. Even where no restrictions on transferability are imposed, however, the Commission is concerned that the super-voting shares may be issued as a part of a two-step transaction whereby voting control of the corporation is acquired without purchasing a proportionate percentage of the issuer's equity.

[92] In this scenario, management, over time, will accrue greater and greater control merely by holding their shares. Thus, public shareholders at the time of the recapitalization will, in effect, be disenfranchised.

[93] The Commission is concerned, however, about the potential disenfranchising effect of certain two-step transactions. Specifically, where an issuer or related entity has gone private during the two years preceding the offering, the Commission preliminarily believes that such issuer, upon the offering, has taken action to nullify its shareholders' voting rights.

[94] This assumes that the subsequent issuance has no conditions which affect the rights of existing shareholders. Subsequent issuances of additional common stock with the same voting rights as existing common stock would not be prohibited by the rule.

[95] In this connection, we believe the merger into a shell corporation or a substantially smaller corporation for the purpose of disparately reducing the voting rights of public shareholders of the original corporation would violate the prohibitions contained in Rule 19c–4 and require delisting.

[96] *See* proposed Rule 19C–4(c)(4). In addition, the Commission, of course, recognizes that, in connection with various types of perferred stock or debt securities issued to institutional investors, security arrangements have been designed to provide those investors with protection of their investment in the event of a fundamental corporate change such as a merger or sale of assets. As a general matter, the Commission preliminarily believes that such protections could be structured as default or redemption provisions and, therefore, would not trigger the applicability of proposed Rule 19c–4. Nevertheless, the Commission solicits comment on whether a specific exception for these types of arrangements is necessary and appropriate and how such an exception can be structured so as to avoid permitting transactions that potentially disenfranchise existing shareholders.

[97] The Commission requests comment on whether insurance companies, because of their stockholder structure or the state regulatory framework imposed upon them, should be specifically excluded from Rule 19c–4.

example, some securities, such as those issued by the Federal National Mortgage Association, and securities issued pursuant to a court decree such as may occur in a reorganization, may carry disparate voting rights. Accordingly, the Commission solicits comment on whether these or other types of securities should be specifically excluded from the restrictions embodied in Rule 19c–4 or can be more appropriately addressed through the exemption clause of the Rule. Furthermore, as proposed, Rule 19c–4 applies only to "domestic" issuers.[98] The Commission requests comments on whether or not it is appropriate to extend the application of the Rule to all issuers.

Proposed Rule 19c–4 would permanently preclude a company that issues disparate voting securities violating the Rule's standard from having any of its common stock or equity securities listed on an exchange or authorized for quotation on NASDAQ. Since the Commission preliminarily believes such a ban can prevent situations where an issuer, for example, effects a coercive recapitalization to ward off a hostile takeover, delists from an exchange, recapitalizes back to a one share, one vote form and then reapplies for listing, the Commission is concerned that such a permanent bar could unduly burden companies and ultimately harm shareholders. Accordingly, the Commission solicits comment on whether an issuer should be able to "cure" the prior disenfranchisement of its former shareholders by recapitalizing to a permitted form of capitalization and, if so, whether it should be forced to wait a set period of time (five years, for example) after such a cure to prevent abuse of the Rule.

Finally, commentators are requested to discuss whether there are preferable alternative formats to proposed Rule 19c–4. For example, the Commission solicits comment on whether proposed Rule 19c–4 is preferable to a uniform rule similar to the NYSE proposal, as well as comment on whether the two approaches usefully can be combined.

B. Commission Authority

The Commission believes that in proposing Rule 19c–4 it has met the statutory standards necessary to add to the rules of an SRO as set forth under section 19(c) of the Act. As discussed above, however, certain commentators have raised questions concerning the Commission's authority to amend any SRO listing standard pursuant to its section 19(c) authority. For the reasons discussed in more detail below, the Commission has concluded that proposed Rule 19c–4 is consistent with the Act and in furtherance of the objectives of sections 6, 11A, 14, 15A, 19 and 23 of the Act. In brief, the Commission believes that proposed Rule 19c–4 is a means reasonably designed to prevent potential disenfranchisement of shareholders. As such, the Commission does not believe that the Rule impermissibly intrudes upon areas traditionally subject to state corporate law. Under the proposed rule, the full panopoly of corporate capital structures is still available to issuers; only certain methods of implementing these capital structures are precluded.

1. Rules of an SRO Are Covered by Section 19(c)

Section 19(c) of the Act grants the Commission authority to amend the rules of an SRO as it "deems necessary or appropriate * * * in furtherance of the purposes of [the Act]." The term "rule" is defined in section 3(a)(27) of the Act [99] to include "stated policies, practices, and interpretations of such [exchange or association] as the Commission, by rule, may determine to be necessary or appropriate in the public interest or for the protection of investors to be deemed to be rules of such [exchange or association]." In turn, the terms "stated policies, practices or interpretations" are defined as including "any statement * * * that establishes or changes any standard, limit or guideline with respect to (i) the rights, obligations or privileges of specified persons, or * * * persons associated with specified persons." [100] "Specified persons" include "all participants in or persons having or seeking access to facilities of [exchanges or an association]."[101] Listing standards or eligibility criteria clearly are statements establishing standards or guidelines with respect to the obligations and privileges of issuers seeking access to the exchanges' or NASDAQ markets.[102] Thus, the listing requirements of the exchanges and NASDAQ eligibility criteria are "rules" that the Commission may amend under section 19(c) if to do so would be in "furtherence of the purposes of [the Act]." Indeed, until the submission of the NYSE's proposed modification of its one share, one vote policy, revisions to exchange listing and NASDAQ eligibility criteria were routinely submitted to the Commission for its review and approval under section 19[103] without substantial comment regarding the Commission's authority.[104] Moreover, the plain language of section 19(c) does not suggest in any way that the scope of Commission jurisdiction over SRO rules depends on the type or content of the SRO rule involved.[105]

The legislative history of section 19(c) further supports the Commission's authority to amend any listing standard or eligibility criterion, quantitative or qualitative, of the SROs. Prior to the 1975 Amendments, section 19(b) identified specific types of exchange rules as illustrative of the type of rules that the Commission was authorized to alter or supplement. Exchange listing and delisting standards were among the types of rules specifically identified. Congress, however, did not follow the pattern established in original section 19(b). Instead, the Committee Report accompanying the Senate version of the 1975 Amendments indicated that the broad language of section 19(c) was intended to give the Commission "clear authority to amend [SRO] rules in any respect consistent with the objectives of the Exchange Act." [106] Accordingly,

[98] A "domestic" issuer for purposes of proposed Rule 19c–4 is an issuer that is not a "foreign private issuer" as defined in Rule 3b–4 under the Act.

[99] 15 U.S.C. 78c(a) (27).

[100] 17 CFR 240.19b–4.

[101] *See* release adopting Rule 19b–4 under the Act (17 CFR 240.19b–4), Securities Exchange Act Release No. 11604 (August 19, 1975).

[102] The statute makes clear that "issuers" were among the class of persons who would be subject to SRO rules and protected by the Act's requirements regarding SRO action. *See* sections 6(b)(3), 6(b)(4), 6(b)(5), 15A(b)(4), 15A(b)(5), and 15A(b)(6) of the Act.

[103] *See, e.g.*, note 106 *infra;* Letter from James J. O'Neill, Assistant Vice President, Amex, to Irving Pollack, Director, Division of Market Regulation, dated July 21, 1972 (filing Amex policy against listing non/voting common stock pursuant to Rule 17a–8); Securities Exchange Act Release No. 13346 (March 9, 1976) (approving NYSE audit committee listing requirements); Securities Exchange Act Release No. 22894 (February 11, 1986), 51 FR 6056 (amending Schedule D to conform maintenance criteria to those in NASDAQ/NMS Designation Plans); Securities Exchange Act Release No. 22506 (October 4, 1985), 50 FR 41769 (SR-NASD–85–20) (proposing corporate governance standards for NMS securities; and Securities Exchange Act Release No. 18054 (August 21, 1981), 46 FR 43341 (proposal to increase quantitative listing requirements for first time inclusion on NASDAQ).

[104] *Id.*

[105] The language of a statute controls when sufficiently clear in its context." *Ernst & Ernst v. Hochfelder* 425 U.S. 186, 201 (1976). *See Aaron v. SEC*, 446 U.S. 680, 700 ("[i]n the absence of a reasonbly plain meaning and legislative history, the words of the statute must prevail.").

[106] Senate Comm. on Banking, Housing & Urb. Affs., *Report to Accompany S. 249: Securities Acts Amendments of 1975* S. Rep. No. 75, 94th Cong., 1st Sess. 130, 131 (1975) ("Senate Report"). We note that

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because listing standards are rules of an SRO, as defined under the Act, and because such listing standards were well recognized SRO rules when Congress conferred upon the Commission authority under section 19(c) to amend such rules if such amendment is necessary or appropriate in furtherance of the purposes of the Act.

The ABA and others, however, argue that the SROs' lack of enforcement authority over issuers undercuts the Commission's authority to require those same SROs to impose rules affecting issuers.[107] According to this argument, SROs are not obligated to enforce listing standards against issuers because section 19(g) of the Act only requires that an SRO enforce compliance with its rules by its members or their associated persons, and section 19(h) of the Act does not authorize the Commission to discipline an SRO for failing to enforce compliance with its rules by issuers. Thus, the ABA believes it would be meaningless for the Commission to impose on SROs a rule that they were not required to enforce.

This argument ignores the fact that SRO rules are binding on the SRO itself. An SRO must follow its listing standards when listing a security. Moreover, section 19(h) authorizes the Commission to bring enforcement action against any SRO that fails to comply with its own rules. Thus, any SRO that failed to enforce its listing standards, or enforced them in a manner inconsistent with its rules, would be subject to discipline by the Commission.[108] Accordingly, the Commission preliminarily does not find that sections 19 (g) and (h) provide any basis to ignore the clear language set forth in section 19(c) of the Act.[109]

2. Proposed Rule 19c-4 Is Necessary or Appropriate in Furtherance of the Purposes of the Act

The Commission's concerns regarding the adoption of disparate voting rights plans, which have led it to propose Rule 19c-4, arise because such plans can disenfranchise existing shareholders of their voting rights. If the restriction on removal or limitation of voting rights or the creation of dual class stock is not subject to the discipline of the marketplace (*e.g.*, in the case of a public offering), existing shareholders can be disenfranchised without being compensated for the concomitant permanent deprivation of their right to have an impact on any future corporate decisions, and potentially their right to receive a control premium from a takeover offer. Furthermore, the Commission is concerned that such disenfranchisement may result in eroding investor confidence in the securities markets.

Based on the above, the Commission believes that it is necessary and appropriate in furtherance of the purposes of sections 6, 15A and 14 of the Act [110] to protect investors and the public interest from disparate voting rights plans that disenfranchise existing shareholders.[111]

First, the Commission believes that proposed Rule 19c-4 is in furtherance of sections 14 (a) and (b) of the Act, which are intended to ensure fair shareholder suffrage.[112] The 1934 House Report on the proposed Securities Exchange Bill describes the broad purpose of section 14(a):

> Inasmuch as only the exchanges make it possible for securities to be widely distributed among the investing public, it follows as a corollary that the use of the exchange should involve a corresponding duty of according shareholders fair suffrage.[113]

Congress's implicit assumption that securities holders possessed effective voting power was based on the NYSE's existing and widely publicized policy against listing non-voting common stock. In light of the NYSE's position as the principal national securities market, this policy ensured that voting rights plans that disenfranchise shareholders through transactions that are not fully subject to market discipline would not become prevalent among the nation's major corporations.[114]

Section 14(a) contains an implicit assumption that shareholders will be able to make use of the information provided in proxy solicitations in order to vote in corporate elections.

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by providing the Commission with such broad authority over exchange rules in both sections 19(b) and 19(c). Congress can be viewed as having confirmed the Commission's practice of reviewing exchange listing standards, both qualitative and quantitative. Both prior to and subsequent to the 1975 Amendments, the Commission has reviewed listing standards concerning shareholder suffrage and other so-called "corporate governance" matters in proposed rule filings submitted by the SROs.

For example, in 1974 the Amex filed a proposed change in its listing standards for foreign companies that would have reduced public share distribution requirements and eliminated the requirements of annual reports, voting common stock, and outside directors for these stocks. The Commission decided to grant a hearing to determine whether to delete the rule under section 19(b) in part in response to concerns regarding the changes in voting rights. The Amex ultimately withdrew its proposal. Letter from Bernard Maas, Vice President, Amex, to Sheldon Rappaport, Asociate Director, Division of Market Regulation, SEC, dated January 2, 1974. Senator Harrison Williams, a principal architect of the 1975 Amendments, clearly was aware of the Commission's activity in the listing standards area. In March 1974, he submitted a letter to the Commission arguing that the Commission should "disapprove" the Amex rule filing. Letter from Harrison Williams, U.S. Senator, to Ray Garrett, Jr., Chairman, SEC, dated March 22, 1974.

See letter from Paul Kolton, Chairman, Amex, to Ronald Hunt, Secretary, SEC, dated July 20, 1973 (requesting the Commission to review, pursuant to sections 6 and 19 of the Act, an NYSE listing standard rule change).

[107] *See* text accompanying notes 76–77, *supra*.

[108] Moreover, the Commission notes that, notwithstanding the enforcement responsibilities of the SROs vis-a-vis issuers, as a condition of their registration as SROs, an exchange or association must have the "capacity to be able to carry out the purposes of [the Act]." *See* sections 6(b)(1) and 15A(b)(2) of the Act.

[109] As a practical matter, the differential treatment of issuers can be easily explained. SROs can fine, censure or expel from membership their members and the associated persons of such members. In contrast, SROs, as a practical matter, only may delist their issuers, they may not fine or censure issuers listed on their markets. Accordingly, the statute recognizes that, apart from following their listing standards, SROs are not expected, under section 19(g) of the Act, "to enforce compliance," *i.e.*, issue fines or censures, against their issuers. *Compare* sections 6(b)(6) and 15A(b)(7) of the Act (authorizing explusion, suspension, limitations on activities, fines and censure of members and persons associated with members) *with* section 12(d) of the Act (authorizing a security to "be withdrawn or stricken from listing and registration in accordance with the rules of the exchange").

[110] 15 U.S.C. 78f, 78*o*-3, and 78n.

[111] As discussed in more detail below, sections 6(b) and 15A(b) require, among other things, that the rules of an exchange or association be consistent with investor protection, the public interest, a free and open market, and other provisions of the Act, while section 14(a) embodies the principles of fair corporate suffrage.

[112] We note also that sections 6(b)(1) and 15A(b)(2) of the Act state that in order to be registered as an exchange or association, an SRO must have the "capacity to be able to carry out the purposes of [the Act]." One such purpose is found in the requirements of section 14.

[113] *See* H.R. Rep. 1383, 73d Cong. 2d Sess. 14 (1934). Professor Loss notes that the Commission's power under section 14(a) is not limited to requiring disclosure, and the statutory language of the section is more general than it is under the specific disclosure philosophy of the Securities Act of 1933. 2 L. Loss, *Securities Regulation* 868 (2nd ed. 1961).

cf. J.I. Case v. Borak 377 U.S. 426, 431–32 (1964) where the Supreme Court referred to section 14(a) as protecting "the free exercise of the voting rights of stockholders"; *Medical Committee for Human Rights v. SEC*, 432 F.2d 659 (D.C. Cir. 1970) in which Congress' enactment of Section 14(a) was viewed as having an overriding purpose of assuring the vitality of the concept of corporate democracy, including the right, or duty, of shareholders to vote to control important decisions affecting them and the corporations they own.

[114] In this regard, the Commission notes that, as enacted in 1934, the Act focused on securities listed on a national securities exchange because, as noted above, Congress believed "only the exchanges make it possible for securities to be widely distributed among the investing public." Only with the emergence of NASDAQ in the 1970s and 1980s, coupled with the increased incidence of hostile takeovers, did the question of NASDAQ eligibility criteria take on significance. Thus, the Commission views proposed Rule 19c-4 as furthering the regulatory framework which underlay the enactment of Section 14.

Accordingly, with proposed Rule 19c–4, the SRO's rules will further the shareholder suffrage policy reflected in Section 14(a) proxy requirements by preventing the disenfranchisement of the voting rights of exising shareholders through transactions that are not fully subject to market discipline. Indeed, the disenfranchisement of shareholders which would be permitted if disparate voting rights plans could be freely adopted could render substantially ineffective the proxy protections emobodied in section 14.[115]

Second, the exchanges and the NASD have the responsibility under sections 6(b)(5) and 15A(b)(6) of the Act to ensure that their rules protect investors and the public interest.[116] The Commission believes that proposed Rule 19c–4 furthers the Act's requirements that the rules of SROs be designed to protect investors and the public interest.[117] As discussed above, the proposed rule protects investors from disparate voting rights plans that result in permanent disenfranchisement, thereby eliminating a shareholder's right to have any effect on future corporate decisions through transactions that are not fully subject to market discipline. At the same time, however, proposed Rule 19c–4 is crafted to permit disparate voting rights plans that do not disenfranchise existing shareholders and assure that the creation of shares with lesser voting rights is subject to market discipline.

Finally, the Commission notes that the 1975 Amendments added section 11A to the Act to "facilitate the establishment of a national market system for securities."[118] Section 11A of the Act directs the Commission to "use its authority * * * to carry out the objectives [of section 11A and] by rule * * * designate the securities qualified for trading in the national market system."[119] Section 11A(a)(1) enumerates several findings of Congress regarding the importance of the securities markets and the propriety, for the protection of investors and the maintenance of fair and orderly markets, to assure, among other things, "fair competition among brokers and dealers, among exchange markets, and between exchange markets and [other] markets * * * ."

Congress intended that the rules promulgated under Section 11A assure that "equal regulation" would be achieved within a national market system regarding the markets for securities qualified for national market system trading, as well as dealers, exchange members and brokers.[120] The Senate Report viewed the Commission's power to designate securities qualified for trading in the national market system[121] as an important tool in achieving, among other things, a market characterized by "fair competition." Based on the above, the Commission believes that a minimum standard regarding disparate voting rights plans for all markets furthers the equal regulation and fair competition requirements embodied in section 11A. Indeed, the Commission believes it would be anomalous if its efforts to increase the competitiveness of the various trading markets resulted in public shareholders being deprived of one of their most fundamental rights, *i.e.*, their voting power.

V. Initial Regulatory Flexibility Analysis

This initial regulatory flexibility analysis has been prepared in accordance with the Regulatory Flexibility Act.[122] Rule 19c–4 is being proposed pursuant to section 19(c) of the Act. Section 19(c) grants the Commission authority, by rule, to "abrogate, add to, and delete from the rules of [an SRO]" under certain circumstances. Thus, Rule 19c–4, if adopted, will become a rule of the exchanges and the NASD. For this reason, the Regulatory Flexibility Act may not apply to a rule adopted by the Commission pursuant to section 19(c) of the Act. Nevertheless, because certain issuers may be affected by the proposed Rule if it is adopted, the Commission has determimed to prepare this analysis because it believes it is important that the concerns which underlie the Regulatory Flexibility Act be fully considered.

A. Reasons for Proposed Action

Proposed Rule 19c–4, which if adopted would constitute a minimum standard regarding the types of voting securities permitted to be listed on exchanges or authorized for quotation reporting on inter-dealer quotation systems, is intended to enhance investor protection by, among other things, preventing the undermining of the fair corporate suffrage provisions of the Act.

B. Objectives

Proposed Rule 19c–4 is not intended to prohibit the adoption of disparate voting rights plans; it is intended to prevent adoption of such plans under circumstances that would disenfranchise existing shareholders.

C. Legal Basis

Proposed Rule 19c–4 would be promulgated under the Act, 15 U.S.C. 78a *et seq.*, and particularly sections 19 and 23 (15 U.S.C. 78s, and 78w).

D. Small Entities Subject to the Rule

The Commission, in Securities Exchange Act Release No. 18452 (January 28, 1982), adopted definitions of "small entity" for the various entities subject to Commission rulemaking. When used with reference to an exchange, the term small entity means any exchange that has been exempted from the reporting requirements of Rule 11Aa3–1 under the Act.[123] Thus, since proposed Rule 19c–4 specifically exempts exchanges that are not subject to the reporting requirements of Rule 11Aa3–1 under the Act, there is no effect on exchanges that are small entities for purposes of the Regulatory Flexibility Act.

The Commission has defined in Rule 0–10 under the Act[124] the term "small entity" for purposes of sections 12, 13, 14, 15(d) and 16 of the Act, to be an issuer, other than an investment company, that, on the last day of its most recent fiscal year, had total assets of $5 million or less and when used with reference to an investment company, an investment company with net assets of $50 million or less as of the end of its most recent fiscal year.

Under these limits, depending on other restrictions imposed by the various exchanges, a small issuer may be listed or authorized for quotation and reporting services on every exchange and NASDAQ. Of the 7700 companies

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[115] Moreover, in adopting section 14(b) of the Act, Congress sought to facilitate effective voting by beneficial shareholders in corporate elections, in part to reduce management dominance of elections through obtaining blank proxies from brokers and other custodial holders of securities. Section 14(b) gave the Commission extensive rulemaking authority with respect to proxies on securities carried for customers. *See Stock Exchange Practices: Hearings before the Senate Comm. on Banking & Currency*, 73rd Cong. 1st Sess 6677, 7711–12 (1934).

[116] 15 U.S.C. 78f(b)(5) and 78o–3(b)(6).

[117] We note that the standards in section 14(a) for Commission action are the protection of investors and the public interest. Accordingly, the principles of fair corporate suffrage in section 14(a) define what is in the public interest and necessary or appropriate for the protection of investors for purposes of sections 8(b)(5) and 15A(b)(2) of the Act.

[118] Section 11A(a)(2) of the Act.

[119] *Id.*

[120] H.R. Rep. No. 229, 94th Cong. 1st Sess. 93–99 (1975). These provisions were incorporated from the bill proposed by the Senate. Under an amendment that was proposed by the House, but overridden during the Committee Conference, equal regulation would have been mandated regarding dealers only.

[121] Senate Report, *supra* note 106, at 101.

[122] 5 U.S.C 603.

[123] 17 CFR 240. 11Aa3–1.

[124] 17 CFR 240.0–10.

listed on an exchange or traded on NASDAQ, less than 1000 are "small entities" for purposes of the Regulatory Flexibility Act that possibly could be restricted in adopting voting rights plans as a result of Rule 19c–4.

E. Reporting, Recordkeeping and Other Compliance Requirements

There would be no reporting or recordkeeping requirements associated with Rule 19c–4. Compliance requirements would be placed directly on exchanges and the NASD, with attendant consequences on issuers whose stock is traded on those markets. Because disparate voting rights plans are not prohibited, only restricted in their effect, no issuer would be denied the ability to raise additional capital as a result of the proposed rule. Issuers, including an indeterminate number of small entities, however, would be subject to delisting if, among other things, they used disparate voting rights plans to disenfranchise shareholders. The Commission believes that the costs, if any, of such a limitation do not outweigh the benefits of protecting existing shareholders from potential disenfranchisement.

F. Significant Alternatives

The Regulatory Flexibility Act directs the Commission to consider significant alternatives to the proposal that would accomplish the stated objectives while minimizing any significant economic impact of the proposed rule on small entities. If the Commission is to promote effectively the protection of investors and the purposes of the Act, the Commission preliminarily believes that there is no less restrictive alternative to the terms of the proposed Rule that would provide protection to investors and further the purposes of the Act. For example, one alternative may be to provide an exemption to small entities from the provisions of the Rule. The Commission believes that if it were to do so, the result may be to permit public shareholders of those small entities to be disenfranchised. Instead, it appears preferable, as the Rule proposes, to grant exchanges and associations some latitude to exempt certain types of issuances from the prohibitions embodied in the Rule if such exemption is consistent with the protection of investors and the public interest, and otherwise in furtherance of the purposes of the Act and the Rule. Such exceptions could, if appropriate, address more specifically transactions by small issuers.

VI. Conclusion

In consideration of the above, the Commission is instituting a proceeding and proposing a rule that it preliminarily believes is necessary and appropriate in furtherance of the purposes of sections 6, 14, and 15A of the Act to embody, among other things, the principles of fair corporate suffrage, the protection of investors and the public interest. In proposing a rule embodying a minimum standard that will aply to all securities listed on an exchange or authorized for quotation on NASADAQ, the Commission also believes that proposed Rule 19c–4 is consistent with and in furtherance of the equal regulation and fair competition policies under section 11A.

Proposed Rule 19c–4 is intended to eliminate the listing and trading on national securities exchanges and authorization for quotation or transaction reporting on NASDAQ of securities issued by companies that adopt disparate voting rights plans that result in the diminution or elimination of existing shareholders' voting rights. At the same time, Rule 19c–4 would permit the listing and trading of securities issued by companies that adopt disparate voting rights plans that do not reduce or eliminate the voting power of existing shareholders. This should avoid unduly burdening issuers and allows for flexibility in structuring a corporation's capital structure.

Commentators may submit written comments on the language of the proposed rule itself or any other aspect of the proposal that is discussed in this release, including Part V, Initial Regulatory Flexibility Analysis, to the address noted at the beginning of this release. in addition, commentators wishing to appear at the public hearings concerning this section 19(c) proceeding may do so by following the procedures noted at the beginning of this release.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

Text of Proposed Rule

Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 240—[AMENDED]

1. The authority citation for Part 240 is amended by adding the following citation:

Authority: Sec. 23, 48 Stat. 901, as amended (15 U.S.C. 78w) * * * § 240.19c–4 also issued under sections 6, 15A, and 19 of the Securities Exchange Act of 1934 (15 U.S.C. 78f, 78o–3, and 78s).

2. By adding § 240.19c–4 to read as follows:

§ 240.19c–4 Governing certain listing or authorization determinations by national securities exchanges and associations.

(a) The rules of each exchange shall provide as follows: No rule, stated policy, practice or interpretation of this exchange shall permit the listing, or the continuance of the listing, of any common stock or equity security of a domestic issuer if, on or after May 15, 1987, the issuer of such security issues any class of security or takes other corporate action that would have the effect of nullifying, restricting, or disparately reducing the per share voting rights of holders of an outstanding class or classes of common stock of such issuer registered pursuant to section 12 of the Act.

(b) The rules of each association shall provide as follows: No rule, stated policy, practice or interpretation of this association shall permit the authorization for quotation and/or transaction reporting through an automated interdealer quotation system ("authorization"), or the continuance of the authorization, of any common stock or equity security of a domestic issuer if, on or after May 15, 1987, the issuer of such security issues any class of security or takes other corporate action that would have the effect of nullifying, restricting, or disparately reducing the per share voting rights of holders of an outstanding class or classes of common stock of such issuer registered pursuant to section 12 of the Act.

(c) The following terms shall have the following meanings for purposes of this Section, and the rules of each exchange and association shall include such definitions for purposes of the prohibition in paragraphs (a) and (b), respectively, of this section:

(1) The term "Act" shall mean the Securities Exchange Act of 1934, as amended.

(2) The term "common stock" shall include any security of an issuer designated as common stock and any security of an issuer, however designated, which by its terms is a common stock *(e.g.,* a security which entitles the holders thereof to vote generally on matters submitted to the issuer's security holders for a vote).

(3) The term "equity security" shall include any equity security defined as such pursuant to Rule 3all-1 under the Act [17 CFR 240.3all-1].

(4) The term "security" shall include any security defined as such pursuant to

section 3(a)(10) of the Act, but shall exclude any class of securities having a preference over the issuer's common stock as to dividends, interest payments, redemption or payments in liquidation, if the voting rights of such securities only become effective as a result of specified events, not relating to an acquisition of the issuer's common stock, which reasonably can be expected to relate to the issuer's financial ability to meet its payment obligations to the holders of that class of securities.

(d) For purposes of this section:

(1) The term "association" shall mean a national securities association registered as such with the Securities and Exchange Commission pursuant to section 15A of the Act.

(2) The term "exchange" shall mean a national securities exchange, registered as such with the Securities and Exchange Commission pursuant to section 6 of the Act, which makes transaction reports available pursuant to Rule 11A3-1 under the Act [17 CFR 240.11Aa3-1].

(e) An exchange or association may adopt a rule, stated policy, practice or interpretation, subject to the procedures specified by section 19(b) of the Act, specifying what types of securities issuances and other corporate actions are covered by, or excluded from, the prohibition in paragraph (a) or (b) of this section, respectively, if such rule, stated policy, practice or interpretation is consistent with the protection of investors and the public interest, and otherwise in furtherance of the purposes of the Act and this section.

By the Commission.

Dated: June 22, 1987.

Jonathan G. Katz,

Secretary.

Concurring Statement of Commissioner Fleischman

From the very beginning of the proceedings described in the Release, I have been concerned about the Commission's authority to act on corporate governance standards, and would continue to reflect that concern if the Commission's action today set forth an affirmative governance standard. I well understand the arguments, summarized in the Release, over the effect of the 1975 amendments,[1] and I have given careful consideration to the relevant statutory provisions adopted in 1934 and the history, both public and legislative, that accompanied those provisions. In my view, the crucial point is made in the portion of the House Report [2] on what ultimately became section 14(a) of the 1934 Act: "Fair corporate suffrage is an important right that should attach to every equity security bought on a public exchange." [3] That sentence was written when there really was but one national securities exchange, which itself had, only a few years earlier, thrashed out the voting rights issue in the public eye and the public press and had concluded that fair suffrage should be a prerequisite to listing.

Nevertheless, I have taken the opportunity for (and have memorialized in the public record) personal conversations with former staff officials of the Commission, to probe their views on the scope of the old section 19(b) language on the Commission's authority "in respect of such matters as * * * listing or striking from listing." [4] In the 1930s, I believe, it would have somewhat surprised the staff—certainly, in the 1980s I think it takes surviving members of that staff somewhat askance—even to be asked whether this federal regulatory agency has the capacity to pronounce affirmative governance standards.

Perhaps the problem is most clearly phrased by reference to a sentence in Justice Powell's recent opinion in *CTS*: [5] "The longstanding prevalence of state regulation in this area suggests that, if Congress had intended to preempt * * *, it would have said so explicitly." It is the lack of such an explicit statement that has most troubled me. I rely, however, on an understanding, perhaps through the courtesy of former Commissioner Karmel,[6] of the events in the years between 1923 and 1927 that underlay the legislative history of section 14(a), on a review of the relevant judicial decisions antecedent to 1934,[7] and on an application of the *Curran* principle recognizing the wide legal background comprehended within Congressional action,[8] to reach the conclusion that it was not necessary in 1934, for proscription purposes, that the Congress have "said so explicitly." What the Commission is doing today involves not a prescription of governance but rather a prohibition of disenfranchisement where voting rights have previously existed. While I would find it exceedingly difficult to discern Commission authority to prescribe governance standards, I do think there is authority given to the Commission to proscribe those evils relating to suffrage that were known to the Congress in 1934 and can be found, at least implicitly, in the provisions of the 1934 Act.

That leads me to policy: Should the Commission's authority be exercised, and, if so, how? Delay is inherent in the institution of a section 19(c) proceeding; the process is necessarily prolonged. But it seems to me that, by announcing the beginning of a proceeding today, the Commission alerts the Exchanges and the NASD to our intent to press them, and to give them time, to do the job that is rightfully theirs. It is a barebones proposal directed against disenfranchisement that the Commission is putting forward. How to flesh out the skeleton remains with the Exchanges and with the NASD. At the very least they would be foolish to challenge the Federal Government to remove all questions of authority and to prescribe governance standards. I don't understand that there is any intention on this agency's part to start down that road. Rather, the Commission is taking a narrow action to proscribe disenfranchisement only, and is giving a signal of its willingness to do that work if the major markets are so adolescent or unresponsive or self-destructive or perhaps defensive of their past role as to refuse to do their own job and fulfill their own highest responsibilities.

The Commission's action today is not a prescription of uniformity, as I understand it. It is important that the Exchanges and the NASD come forward with their rule proposals to explain how this Commission action will be implemented and what will fall outside the proscription. A myriad of interpretive questions remain. The responsiveness of each Exchange and of the NASD can be expected to differ, and their several resolutions needn't be uniform; that is as it should be. From those differences, it seems to me, can come the opportunity to see the impact of the several markets' policies on their respective listed companies, on the different kinds of shares they list, and on the markets themselves; and that too is as it should be.

I therefore concur, both on an authority and a policy basis, in the initiation of a proceeding to give the markets, the security holders, the issuers, the concerned officials at all levels of government (to whom Commissioner Peters rightly made reference in the public meeting), and the public at large the chance to advise the Commission, in the course of the proceeding, whether our premises are proper and to what extent our conclusions tentatively reached today are correct. That is precisely the purpose of "not on the record rulemaking" specified in section 19(c) by reference to the Administrative Procedure Act.[9]

[FR Doc. 87-14436 Filed 6-23-87; 8:45 am]

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[1] Securities Acts Amendments of 1975, Pub. L. No. 94-29, 89 Stat. 97 (1975). In this connection, I would draw particular attention to Harris, *SEC Holds Hearing On Proposal to Alter Rule on Voting Stock*, Legal Times, Dec. 22, 1986, at 16, and *Proceedings of the Airlie House Symposium: An In-Depth Analysis of the Federal and State Roles in Regulating Corporate Management*, 31 Bus. Law. 859, 1094-99 (Feb. 1976 Special Issue) (discussion among Messrs. Ruder, Loomis, Pickard, Paradise, and others), as well as Letter from Andrew M. Klein to John S.R. Shad, Chairman, SEC (Feb. 19, 1987) (available in SEC File No. S7-22-87).

[2] H.R. Rep. No. 1383, 73d Cong., 2d Sess. (1934).

[3] *Id.* at 13.

[4] Securities Exchange Act of 1934, Pub. L. No. 73-291, section 19(b)(3), 48 Stat. 881, 898-99 (1934) (amended 1975).

[5] *CTS Corp. v. Dynamics Corp.*, 55 U.S.L.W. 4478, 4482 (U.S. April 21, 1987).

[6] Karmel, *Is One Share, One Vote Archaic?* N.Y.L.J., Feb. 26, 1985, at 1.

[7] *See, e.g., Lord v. Equitable Life Assurance Society*, 194 N.Y. 212, 228-29 (1909).

[8] *See Merrill Lynch, Pierce, Fenner & Smith v. Curran*, 465 U.S. 353 (1982).

[9] 5 U.S.C. 500-576 (1982).

17 CFR Part 250

[Release No. 35-24406; File No. S7-21-87]

Exemption From Requirement of a Declaration With Respect to Certain Agreements Concerning Registered Holding Company System Guarantee, Joint Liability, Surety or Indemnitor Obligations

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule amendment.

SUMMARY: The Commission is publishing for public comment a proposed rule amendment set forth in a petition for rulemaking, as amended, filed by The Columbia Gas System, Inc., a registered holding company. The proposed amendment concerns certain routine agreements whereby parent companies in a registered holding company system guarantee, assume joint liability upon or act as surety or indemnitor for the obligations of their subsidiary companies. The suggested rule would exempt such agreements from the present requirement that they be authorized by the Commission pursuant to a declaration.

DATE: Comments must be received on or before July 24, 1987.

ADDRESS: Send comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549 (Reference to File No. S7-21-87). All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Stanley B. Judd, Senior Special Counsel, Office of the Deputy Director (202-272-2079), or Martha Cathey Baker, Attorney (202-272-2073), Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is publishing for public comment the proposal contained in a petition for rulemaking originally filed on March 18, 1987 by The Columbia Gas System, Inc. ("Petitioner"), a registered holding company.

Section 12(b) [15.U.S.C. 791(b)] of the Public Utility Holding Ccmpany Act of 1935 [15 U.S.C. 79 *et seq.*] ("Act") prohibits registered holding companies and their subsidiaries from lending to, extending credit in any manner to, or indemnifying any company in the same holding company system, whether directly or indirectly, in contravention of the rules, regulations or onders which the Commission deems necessary or appropriate in the public interest to protect investors or consumers or to prevent the circumvention of the Act and rules, regulations and orders thereunder. Rule 45(a) [17 CFR 250.45] requires that transactions subject to section 12(b) must be authorized pursuant to a declaration which is approved by order of the Commission. Rule 45(b) [17 CFR 250.45] exempts certain transactions from this requirement. Petitioner proposes to add a new subsection to Rule 45(b) exempting certain routine agreements whereby a parent company in a registered holding-company system guarantees, assumes joint liability upon, or acts as surety or indemnitor for the obligations of its subsidiary. The purpose of the proposed rule change is to eliminate the time and expense required to prepare and submit declarations with respect to the agreements, and to eliminate the administrative burden of reviewing such filings.

Suggested Rule Amendment

The basic outlines of the proposed exemption are derived from various orders of the Commission approving declarations with respect to the routine agreements in question. Petitioner identifies two categories of such agreements which are suitable for exemption.

In the first category are agreements which contain an undertaking in the nature of a direct guarantee by the parent company of the obligations of its subsidiary company. Such agreements are made in the specific context of a requirement of federal, state or local law that the subsidiary furnish evidence of financial responsibility. When, for varying reasons, the subsidiary cannot itself furnish such evidence, the agency or authority administering the applicable law may require the parent company to guarantee the obligations of the subsidiary or to give an indemnity. Such a situation may arise, for example, in connection with workers' compensation self-insurance programs.

In the second category are agreements which contain an undertaking in the nature of an indirect guarantee by the parent company of the obligations of its subsidiary. Such indirect guarantees are created when a parent company, in order to realize substantial savings in premiums for the benefit of an operating subsidiary, enters into a blanket indemnity agreement with a surety company(ies) which has agreed to provide bonds in connection with various routine operational activities of the subsidiary. Many bonds may be required of the operating companies in holding company systems, including, for example, workers' compensation self-insurance bonds, construction performance bonds, well-drilling bonds, lost instrument bonds and appeal bonds. Under the blanket indemnity agreement, the parent company agrees to indemnify the surety company from liability in the event that the latter is required to make payment on behalf of the subsidiary.

Under the proposed rule, each parent company in a holding company system (whether the registered holding company or one of that company's subsidiaries having subsidiary companies) could incur contingent liability for the obligations of its subsidiary companies, pursuant to the exempted agreements, in an aggregate dollar amount not exceeding, at any one time outstanding, the greater of $50,000,000 or 5% of the aggregate principal amount and par value of the other securities then outstanding of the company. The purpose of the limitation is to ensure that the aggregate contingent liabilities, if realized, will not exceed the financial capabilities of the parent company. Alternative limits are provided to allow flexibility to the various companies which would invoke the exemption. For a few parent companies, an amount equal to the 5% limit would exceed $200,000,000; for a few others, it would be less than $50,000,000. The figure of 5% is deemed appropriate in view of the fact that under section 6(b) of the Act [15 U.S.C. 79f(b)], a registered holding company and its subsidiaries may, without prior approval of the Commission, incur short-term obligations aggregating 5% of the principal amount and par value of the other securities of such company then outstanding.

Disscusion

As described in the Senate Report accompanying S. 2796, sections 12 and 13 of the Act were intended to provide "[c]omplete regulation" of intercompany transactions within holding company systems, "to prevent the milking of operating companies in the interest of the controlling holding-company groups." Section 12 was meant to apply to all intercompany transactions which might be detrimental to operating companies, with the exception of service, sales and construction contracts, which section 13 deals with specifically. Subsection 12(b) was intended to regulate down-stream loans, whether on an open book account or otherwise. The Senate Report, noting that such loans "may be legitimate

sources of credit to utility companies while they are controlled by holding companies," stated: "It is important, however, that interest charges and other terms be fair, that no profit accrue to the holding company by reason of its favored position, and that no unsound financial policies be pursued in making such loans." S. Rep. No. 621, 74th Cong., 1st Sess. 34–35 (1035). The requirement under Rule 45(a) of a declaration with respect to transactions subject to section 12(b) is thus intended to ensure that such transactions are fair, that they benefit rather than harm the operating subsidiary companies and that they are based upon sound financial policies.

Petitioner believes that a case-by-case review of the agreements proposed to be exempted from the declaration requirement is not necessary to carry out the goals underlying Rule 45(a). It believes that the nature of the agreements and the safeguards contained in the suggested rule ensure the appropriateness of allowing parent companies to assume contingent liabilities, as provided by the agreements, without the need for prior authorization by the Commission.

First, the agreements qualifying for the exemption concern routine obligations of a subsidiary arising in the ordinary course of its operations. Indebtedness for borrowed money is expressly excluded. Where the agreement represents a direct guarantee by the parent company of the obligations of its subsidiary, the guarantee will result from a requirement of federal, state or local law. Where, on the other hand, the agreement represents an indirect guarantee by the parent company of the obligations of its subsidiary, the agreement will involve an indemnification of a surety company that has agreed to issue bonds of the type specified in the proposed rule in connection with the routine operations of the subsidiary.

Second, the proposed rule responds to the legislative concerns underlying section 12(b) of the Act. The exempted agreements are clearly beneficial to the operating subsidiaries. In keeping with the Congressional mandate that no profit accrue to the parent company in intercompany transactions, the rule expressly disallows any payment, compensation or other consideration to the parent company in return for its assumption of contingent liability upon the obligations of the subsidiary. Further, in order to prevent any unsound financial practices by the parent company in connection with the exempted agreements, the rule limits the aggregate amount of contingent liability which the parent company can assume without authorization of the Commission pursuant to a declaration.

Costs and Benefits

The Commission believes that the proposed amendment to Rule 45 will decrease the costs associated with the present requirement that the agreements, covered by the proposed amendment, be authorized by the Commission pursuant to a declaration. The rule change will eliminate the time and expense required to prepare and submit such declarations and the administrative burden of reviewing such filings. The Commission requests comments identifying other sources of costs and benefits and the quantification of costs and benefits under the proposed amendment.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act [5 U.S.C. 605(b)], the Chairman of the Commission has certified that the proposed amendment of Rule 45 will not, if adopted, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to this release.

List of Subjects in 17 CFR Part 250

Public utilities, Registered holding companies and their subsidiaries, Loans, Extensions of credit, Guarantees, Indemnifications.

Text of Proposed Rule Amendment

Part 250 of Chapter II, Title 17 of the Code of Federal Regulations is proposed to be amended, as set forth below.

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

1. The authority citation for Part 250 continues to read, in part, as follows:

Authority: Secs. 3, 20, 49 Stat. 810, 833; 15 U.S.C. 79c, 79t * * *. Section 250.45(b)(6) also issued under Sec. 12(b), 15 U.S.C. 791(b).

2. Add a new § 250.45(b)(6) to read as follows:

§ 250.45 Loans, extensions of credit, donations and capital contributions to associate companies.

* * * * *

(b) *Exceptions.* * * *

(6) An agreement by a registered holding company or subsidiary company of a registered holding company to guarantee, to assume joint liability, or to act as a surety or as an indemnitor with respect to contingent liabilities or other obligations of a subsidiary of such company incurred in the ordinary course, of such subsidiary's business, if said agreement is in the form of:

(i) A direct guarantee, assumption of liability, surety or indemnification of the subsidiary company's obligations which, is required to meet the requirements of federal, state or local law; or

(ii) An indirect guarantee of a subsidiary through a surety or indemnification of one or more surety companies or agencies, which have agreed to provide bonds of the following kinds required by subsidiary companies in the holding-company system:

(A) Court and fiduciary bonds such as appeal bonds, supersedeas bonds, condemnation bonds, or bonds required to free property fron attachment or to lift an injunction;

(B) License and permit bonds such as blasting and oversize load permit bonds;

(C) United States, state and local government bonds such as customs bonds, workers' compensation self-insurance bonds, bonds required by the Internal Revenue Service, mineral, right-of-way or drilling lease bonds and notary public bonds;

(D) Lost instrument bonds or other bonds which may be necessary or desirable in connection with the processing of securities or any bonds which may be required by a stock exchange on which any security is listed;

(E) Admiralty bonds;

(F) Bonds required for engineering or construction purposes such as bid, performance or payment bonds; and

(G) Any other bonds of a similar nature required for routine operational purposes;

Provided, however, that no payment, compensation or other consideration shall be paid or accrue to the parent company in consideration for such guarantee, assumption of liability, surety or indemnification; this rule shall not be construed to apply to a direct or indirect guarantee, assumption of liability, surety or indemnification of a subsidiary company's indebtedness for borrowed money; and the aggregate of all such direct and indirect guarantees, assumptions of liability, sureties or indemnifications shall not exceed the greater of $50,000,000, or 5% of the aggregate principal amount and par value of the other securities then outstanding of the company issuing the guarantees, assumptions of liability, sureties or indemnifications. (For securities having no principal amount or par value, the fair market value of such securities on the date of issuance shall be used).

By the Commission.

Dated: June 16, 1987.

Jonathan G. Katz,

Secretary.

Regulatory Flexibility Certification

I, John S. R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that the proposed amendment to Rule 45 [17 CFR 250.45] under the Public Utility Holding Company Act of 1935 ("Act") [15 U.S.C. 79 *et seq.*] set forth in Public Utility Holding Company Act Release No. 35–24406 if adopted by the Commission, will not have a significant economic impact on a substantial number of "small entities" for purposes of the Regulatory Flexibility Act. Rule 110 [17 CFR 250.110] under the Act defines the term "small business" or "small organization" to mean, for purposes of the Regulatory Flexibility Act, "a holding company system whose gross consolidated revenues from sales of electric energy or natural or manufactured gas distributed at retail for its previous fiscal year did not exceed $1,000,000." There are presently thirteen registered holding company systems to which the proposed amendments would apply. As each of these systems has annual consolidated operating revenues exceeding $1,000,000, none is a small entity as defined in Rule 110. Therefore, the proposed amendment to Rule 45, if adopted, will not have a significant economic impact on a substantial number of "small entities" for purposes of the Regulatory Flexibility Act.

Dated: June 4, 1987.

John S.R. Shad,

Chairman.

[FR Doc. 87–14187 Filed 6–23–87; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 626, 627, 628, 629, 630, and 631

Job Training Partnership Act; Implementation of Job Training Partnership Act Amendments of 1986; Technical Corrections

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The Employment and Training Administration is proposing amendments to its regulations, to implement the Job Training Partnership Act Amendments of 1986. The proposed rule includes a number of technical corrections and other clarifications.

DATE: Comments must be received on or before July 24, 1987.

ADDRESS: Written comments in response to this notice shall be mailed or delivered to the Assistant Secretary for Employment and Training, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N4469, Washington, DC 20210, Attention: Mr. Robert N. Colombo, Director, Office of Employment and Training Programs. Commenters wishing the Department of Labor to acknowledge receipt of their comments must submit them by certified mail, return receipt requested.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Colombo, Director, Office of Employment and Training Programs, Employment and Training Administration, U.S. Department of Labor, Room N4469, 200 Constitution Avenue, NW., Washington, DC. 20210. Telephone: (202) 535–0577.

SUPPLEMENTARY INFORMATION: On October 13, 1982, the President signed the Job Training Partnership Act, Pub. L. 97–300 (JTPA or the Act). Amendments to JTPA were enacted in the Job Training Partnership Act, Amendments, Pub. L. 97–404 (December 31, 1982); the Carl D. Perkins Vocational Education Act, Pub. L. 98–524 (October 19, 1984); the Job Training Partnership Act Amendments of 1986, Pub. L. 99–496 (October 16, 1986); and the Homeless Eligibility Clarification Act, Title XI of the Anti-Drug Abuse Act of 1986, Pub. L. 99–570 (October 27, 1986). See also section 713(b) of Pub. L. 99–159, National Science, Engineering, and Mathematics Authorization Act of 1986, which contains technical amendments to the Carl D. Perkins Vocational Education Act that in turn amend JTPA.

Final regulations promulgated by the Department of Labor (Department) to implement the provisions of the Act were published in the **Federal Register** at 48 FR 11078 (March 15, 1983); 48 FR 48753 (October 20, 1983); 48 FR 49198 (October 24, 1983); and 48 FR 52438 (November 18, 1983). See 20 CFR Parts 626–636 and 684.

These regulations have been amended by **Federal Register** publication on two additional occasions: On April 26, 1985, at 50 FR 16473, as corrected on June 13, 1985, at 50 FR 24764; and on August 29, 1986, at 51FR 30856. The recent enactment of the Job Training Partnership Act Amendments of 1986 establishes the need for further modification of the JTPA regulations to incorporate the revisions contained in the amended legislation.

On January 16, 1987, an Advance Notice of Proposed Rulemaking (ANPR) was published in the **Federal Register** as part of this rulemaking. 52 FR 1932. The ANPR invited comments on the overall approach and actions proposed.

In response, 19 comments were received on the ANPR. Eleven were received from State-level agencies, five from local governments and Private Industry Councils, and three from public interest groups.

Many comments addressed issues that the ANPR indicated may be considered for more performance-based contracting, and are not addressed in this Notice of Proposed Rulemaking (NPRM). Also, several comments addressed issues regarding performance standards, reporting or administrative matters which are not addressed by this notice.

Following is a summary of comments received on each of the major issues raised, and the Department's response.

Intrastate "Hold Harmless"

Several comments were received indicating that regulations were needed for the application of the intrastate "hold-harmless" provisions of the 1986 JTPA amendments. The JTPA amendments contain specific language regarding the application of the hold-harmless provisions. The language states that:

> . . . no service deliver area . . . shall be allocated an amount equal to less than 90 percent of the average of its allocation percentage for the two preceding fiscal years . . .

The Department believes this language and additional clarification in JTPA section 202(a)(3), as amended, are sufficient for interpretation of the amendments.

Questions were also received regarding application of this provision to the Summer Youth Employment and Training Program (SYETP) for the summer of 1987. The administrative guidance provided to States at the time the 1987 SYETP allotments were made indicated that the hold-harmless provision applied to 1987 SYETP intrastate allocations. Because of the administrative guidance provided, the Department believes that supplementary regulations are not required.

Use of Incentive Grant Funds

On June 4, 1986, the Department published a proposed policy in the **Federal Register** to clarify the use of funds under section 202(b)(3). 51 FR 20362. On August 1, 1986, the Department extended the comment period to allow additional time to comment on the proposed policy. 51 FR 27608. This NPRM incorporates comments received, Congressional action and intent to establish the Department's policy with regard to use of section 202(b)(3) funds.

Several comments were received in response to the ANPR on revisions to

JTPA section 202(b)(3)(B), relating to incentive grant funds. The comments (1) proposed that Governors be authorized to set aside technical assistance funds at the beginning of the program year, (2) questioned whether incentive grants used for program services have the same characteristics and requirements as the JTPA Title II–A 78-percent funds they supplement, (3) questioned whether performance standards apply (or should apply) to incentive grants, (4) opposed limitations on uses of technical assistance funds, and (5) indicated the need to incorporate into regulations the administrative provisions on appeals to sanctions imposed due to failure to meet performance standards for two years.

The regulations clarify that technical assistance funds are those funds, if any, that are available if the full amount of the funds under section 202(b)(3) are not needed to make incentive grants. This provision was in the Act as originally enacted. Neither the Act nor the JTPA regulations specify the point of time during the year when this determination is to be made, and this NPRM does not address the issue, leaving such determinations to the Governor.

The characteristics and requirements associated with section 202(b)(3) funds, including whether performance standards apply, are not the subject of this NPRM. Such issues are being addressed administratively through the Department's policy guidance system. Similarly, the policy on appeals to sanctions imposed due to failure to meet performance standards has been issued administratively by the Department and, therefore, has not been addressed in this NPRM.

Services to Youth

Issues were raised regarding whether the amendment to JTPA section 253 (as redesignated), which provides that "a service delivery area shall assess the reading and mathematics skill levels of eligible participants", requires that *all* such participants be assessed; and, if so, what requirements were associated with such assessments. The Department believes that the legislation so requires, but notes that data available from schools and other sources may serve as the basis for the assessment, and that there is considerable flexibility on ways to address this provision.

Some commenters also opposed setting service levels for remedial education programs for youth. The Congressional explanatory statements accompanying Pub. L. 99–496 makes clear that neither the Governor of a State nor the Secretary may require a specific service level or percentage expenditure of funds to satisfy this requirement. See 132 Cong. Rec. H6809 (October 1, 1986).

Identification of Dislocated Workers

Comments on this topic (1) indicated that the categories of self-employed should be as broad as possible, (2) argued that language changes are needed to clarify that self-employed workers need not be unemployed, but face situations similar to those with layoff notices, and (3) suggested that underemployed persons be included.

The categories in the regulations are clearly illustrative and not limiting. Language changes are proposed to clarify that self-employed workers who face employment termination (including farmers) may be served. Underemployment by itself is not a criterion for eligibility in dislocated worker programs.

Other Comments

During congressional deliberation, consideration was given to revising the eligibility criteria for section 124 Training Programs for Older Individuals. The amendments as enacted did not include revision to these criteria. It remains that individuals in section 124 programs must be economically disadvantaged and have attained 55 years of age. Consistent with the legislative history of Pub. L. 99–496, however, the Department has proposed a new regulation at § 627.23(b) to improve coordination among older worker programs.

Several comments were received expressing appreciation for the opportunity for a broad spectrum of the employment and training community to comment on the Department's plans for rulemaking.

Several comments recommended that the effective date of changes be delayed until Program Year 1988 (i.e., July 1, 1988). No authority was provided by the Congress, however, to delay such implementation and, therefore, it is intended that amendments to the regulations will be effective 30 days after publication of a final rule in the **Federal Register.**

Technical Corrections and Other Clarifying Rules

On occasion over the past four years, by separate **Federal Register** notices, the Department has announced changes in the implementation of JTPA. These changes have been largely necessitated by provisions of other federal statutes which contain requirements that amended JTPA or applied to programs under JTPA. Other JTPA clarifying notices were also published. The Department is taking this opportunity to incorporate some of these previously published changes and interpretations into the basic JTPA Titles I, II, and III regulations. The following is a summary of the incorporated changes:

Section 628.5 has been amended to reflect the appeal provisions applicable to a Governor's notice of intent to revoke approval of all or part of a plan as provided for in section 164(b)(1) of JTPA.

Sections 629.1 and 629.42 are being amended to reflect that the Single Audit Act of 1984, as implemented in 29 CFR Part 96, applies to JTPA.

Section 629.1 is also being amended to reflect previously issued administrative guidance on the 45-day enrollment provision for eligible summer youth program applicants under Title II–B.

Regulatory Impact

The proposed rule implements the Job Training Partnership Act Amendments of 1986, makes technical changes, and clarifies existing regulations to reflect continuing policies. It would not have the financial or other impact to make it a major rule, and therefore the preparation of a regulatory impact analysis is not necessary. See Executive Order No. 12291, 3 CFR Part 1981 Comp., p. 127, 5 U.S.C. 601 note.

The Department of Labor has notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to the Regulatory Flexibility Act at 5 U.S.C. 605(b), that the proposal would not have a significant economic impact on a substantial number of small entities. No significant economic impact would be imposed by the proposed rule.

Catalog of Federal Domestic Assistance Numbers

These programs are listed in the *Catalog of Federal Domestic Assistance at No. 17.246, "Employment and Training Assistance—Dislocated Workers" (JTPA, Title III, Programs); and No. 17.250, "Job Training Partnership Act (JTPA)" (JTPA, Titles I and II, Programs).*

List of Subjects in 20 CFR Parts 626, 627, 628, 629, and 630

Grant programs, Labor, Manpower training programs.

Proposed Rule

Accordingly, 20 CFR Chapter V is proposed to be amended as follows:

PART 626—INTRODUCTION TO THE REGULATIONS UNDER THE JOB TRAINING PARTNERSHIP ACT

1. The authority citation for Part 626 is revised to read as follows:

Authority: 29 U.S.C. 1579(a).

§ 626.1 [Amended]

2. In § 626.1, paragraph (b) is removed; the designation "(a)" is removed from the introductory text; paragraph (a)(1) is redesignated as paragraph (a) and paragraph (a)(2) is redesignated as new paragraph (b).

3. In § 626.3, the table of contents for the regulations under the Job Training Partnership Act (Parts 626–638) is amended by revising the section heading for § 631.22 and by adding to Part 631, Subpart D, a new § 631.30, to read as follows:

§ 626.3 Table of contents for the regulations under the Job Training Partnership Act.

* * * * *

631.22 Funding for discretionary program.

* * * * *

631.30 Participant eligibility.

* * * * *

4. Section 626.4 is amended by:

a. Removing from the introductory text the words "these regulations." and by adding in their place the words "programs under Title I, II, and III of the Act."; and

b. Adding, following the definition of "Family income," a new definition of "Participant", to read as follows:

§ 626.4 Definitions.

* * * * *

"Participant" means any individual who has been determined eligible for participation upon intake; and started receiving employment, training, or services (except post–termination services) funded under the Act, following intake. Individuals who receive only outreach and/or intake and initial assessment services or post-program followup are excluded from this definition.

* * * * *

PART 627—STATE RESPONSIBILITIES UNDER THE JOB TRAINING PARTNERSHIP ACT

5. The authority citation to Part 627 is revised to read as follows:

Authority: 29 U.S.C. 1579(a).

§ 627.2 [Amended]

6. Section 627.2 is amended by removing from paragraph (a) the words "and State" and by adding in their place the words "any State"; and by removing from paragraph (b) the word "check" and by adding in its place the word "review".

7. Section 627.23 is redesignated § 627.23(a) and is amended further by adding a new paragraph (b) to read as follows:

§ 627.23 Training programs for older individuals.

* * * * *

(b) Recipients should coordinate development and delivery of services under section 124 with community service employment programs for older Americans under Title V of the Older Americans Act of 1965, as amended.

8. Section 627.24 is revised to read as follows:

§ 627.24 State incentive grants.

(a) Funds available under section 202(b)(3) shall be used by the Governor to provide incentive grants for programs exceeding performance standards established pursuant to section 106 of the Act, including incentives for serving hard-to-serve individuals. Incentive grant funds shall be distributed among SDAs within the State exceeding their performance in an equitable proportion based on the degree by which the SDAs exceed their performance standards. Incentive grant funds made available to an SDA may be used for postprogram data collection activities, subject to the provisions of § 629.39(f) of this chapter. (Sec. 202(b)(3)(B).)

(b) Funds available under section 202(b)(3) that are not needed for incentive grants shall be used by the Governor to provide technical assistance to SDAs within the State (or to subrecipients in single Statewide SDAs). For the purposes of this section, technical assistance means activities directly related to program performance, including preventative technical assistance to enable the State to anticipate program deficiencies and take corrective action. Subject to the provisions of § 629.39(f) of this chapter, funds available for technical assistance may be retained by the Governor and used for postprogram data collection activities. Technical assistance funds shall not be expended to support ongoing maintenance of management information systems or other activities that should be charged to the overall administration of JTPA programs. (Sec. 106(b)(3)(B).)

PART 628—SERVICE DELIVERY AREAS DESIGNATED UNDER THE JOB TRAINING PARTNERSHIP ACT

9. The authority citation for Part 628 is revised to read as follows:

Authority: 29 U.S.C. 1579(a).

10. Section 628.5 is amended by adding a new paragraph (c), to read as follows:

§ 628.5 Review and approval.

* * * * *

(c) Pursuant to section 164(b)(1) of the Act, a notice of intent to revoke approval of all or part of a plan may be appealed to the Secretary. Such appeals shall be subject to the terms and conditions of paragraph (b) of this section, except that the revocation shall not become effective until:

(1) The time for appeal has expired, or

(2) The Secretary has issued a decision.

11. Section 628.6 is revised to read as follows:

§ 628.6 State SDA submission.

(a) Pursuant to section 105(d) of the Act, when the SDA is the State, the Governor shall, by a date established by and in accordance with instructions issued by the Secretary, submit to the Secretary a two-program-year job training plan. When the SDA is the State, modifications to the plan shall be submitted to the Secretary for approval.

(b) The Secretary shall review the plan or modification for overall compliance with the provisions of the Act. If the plan or modification is disapproved, the Governor may appeal the decision by requesting a hearing before an administrative law judge pursuant to § 629.57(c) of this chapter.

PART 629—GENERAL PROVISIONS GOVERNING PROGRAMS UNDER TITLES I, II, AND III OF THE JOB TRAINING PARTNERSHIP ACT

12. The authority citation for Part 629 is revised to read as follows:

Authority: 29 U.S.C. 1579(a).

13. Section 629.1 is amended as follows:

a. By removing paragraph (b)(2);

b. By redesignating paragraphs (b) and (c) as paragraphs (c) and (e) respectively;

c. By removing from new paragraph (c) the words "Recipients shall ensure that: (1) An" and adding in their place the words "Recipients shall ensure that an"; and by removing from new paragraph (c) the semicolon and word "; and" and adding in their place a period; and

d. By adding new paragraphs (b) and (d), to read as follows:

§ 629.1 General program requirements.

* * * * *

(b) Programs operated under Titles I, II, and III of the Act are subject to the

provisions of 29 CFR Part 96, which implement the Single Audit Act of 1984, except as provided elsewhere in these regulations.

* * * * *

(d) Recipients shall ensure that individuals are enrolled within 45 days of the date of application or a new application must be taken, except that eligible summer program applicants under Title II–B may be enrolled within 45 days into a summer youth enrollee pool, and no subsequent application need be taken prior to participation.

* * * * *

14. Section 629.39 is amended by removing the words "that do not qualify for incentive grants" in paragraph (d)(3); by redesignating paragraphs (f) and (g) as new paragraphs as (g) and (h) respectively; and by adding a new paragraph (f) to read as follows:

§ 629.39 Limitations on certain costs.

* * * * *

(f) Notwithstanding the limitations on certain costs contained in section 108(a) of the Act and paragraph (d) of this section, funds available under section 202(b)(3) of the Act may be used by the Governor or SDA during not more than 2 program years, ending June 30, 1988, to develop and implement a data collection system to track the postprogram experience of participants. Thereafter, the provisions of paragraph (d) of this section shall apply to technical assistance funds under section 202(b)(3) of the Act.

* * * * *

15. Section 629.42 is amended by removing paragraphs (b) and (c); by redesignating paragraphs (d), (e), (f), and (g) as new paragraphs (b), (c), (d), and (e) respectively and by revising paragraphs (a) to read as follows:

§ 629.42 Audits.

(a) The requirements of 29 CFR Part 96, which implement Office of Management and Budget Circular A-128 "Audits of State and Local Governments," apply to JTPA programs administered by recipients and subrecipients, and shall be followed for audits of all program years beginning after July 1, 1985.

* * * * *

PART 630—PROGRAMS UNDER TITLE II OF THE JOB TRAINING PARTNERSHIP ACT

16. The authority citation to Part 630 is revised to read as follows:

Authority: 29 U.S.C. 1579(a).

§ 630.1 [Amended]

17. Section 630.1 is amended by adding at the end of paragraph (b)(1) the following words: "For the purpose of this paragraph (b)(1), the term "eligible youth" includes individuals who are 14 and 15 years of age and enrolled pursuant to section 205(c)(1) of the Act."

18. Section 630.2 is amended as follows:

a. By removing from paragraph (a) the words "251", "252", and "253" and adding in their places the words "252", "253", and "254", respectively;

b. By redesignating paragraph (b) as paragraph (c); and

c. By adding new paragraph (b) to read as follows:

§ 630.2 Summer youth employment and training programs under Part B of Title II.

* * * * *

(b) The Governor shall issue instructions and schedules to assure that each SDA describes its planned summer youth employment and training program (SYETP) activities in an SYETP plan. The SYETP plan shall include a description of assessment plans and arrangements, a description of program activities and services to be provided, and written program goals and objectives which shall be used to evaluate the effectiveness of programs conducted under this section. The Governor may specify other elements that are to be contained in the SYETP plan. The SYETP plan shall:

(1) Describe how the reading and mathematics skill levels of eligible participants will be assessed;

(2) Include the provision of basic and remedial education (other allowable activities specified at section 253 of the Act may also be provided); and

(3) Describe the written goals and objectives established by the SDA to evaluate the effectiveness of its SYETP as specified at section 255 of the Act.

* * * * *

PART 631—PROGRAMS UNDER TITLE III OF THE JOB TRAINING PARTNERSHIP ACT

19. The authority citation to Part 631 is revised to read as follows:

Authority: 29 U.S.C. 1579(a).

§ 631.22 [Amended]

20. Section 631.22 is amended by revising the section heading to read as follows: "Funding for discretionary program.

21. In Part 631, Subpart D is amended by adding a new § 631.30, to read as follows:

§ 631.30 Participant eligibility.

(a) The Governor is authorized to establish procedures to identify substantial groups of eligible individuals who:

(1) Have been terminated or laid-off from employment, are eligible for or have exhausted their entitlement to unemployment compensation, and are unlikely to return to their previous industry or occupation;

(2) Have been terminated, or who have received a notice of termination of employment, as a result of any permanent closure of a plant or facility;

(3) Are long-term unemployed and have limited opportunities for employment or reemployment in the same or a similar occupation in the area in which such individuals reside, including any older individuals who may have substantial barriers to employment by reason of age; or

(4)(i) Were self-employed (including farmers and ranchers) and are unemployed:

(A) Because of natural disasters, subject to the provisions of paragraph (c) of this section; or

(B) As a result of general economic conditions in the community in which they reside.

(ii) For the purposes of paragraph (a)(4)(i) of this section, categories of economic conditions resulting in the dislocation of a self-employed individual may include, but are not limited to:

(A) Failure of one or more businesses to which the self-employed individual supplied a substantial proportion of products or services;

(B) Failure of one or more businesses from which the self-employed individual obtained a substantial proportion of products or services;

(C) Large-scale layoff(s) from, or permanent closure(s) of, one or more plants or facilities that support a significant portion of the State or local economy;

(D) Depressed price(s) or market(s) for the article(s) produced by the self-employed individual; and/or

(E) Generally high levels of unemployment in the local area.

(b) The Governor is authorized to establish procedures to determine the following categories of individuals to be eligible to participate in programs under this part:

(1) Self-employed farmers, ranchers, professionals, independent tradespeople and other businesspersons formerly self-employed but presently unemployed.

(2) Self-employed individuals designated in paragraph (b)(1) of this section who are in the process of going out of business, if the Governor determines that the farm, ranch, or business operations are likely to

terminate, as evidenced by one or more of the following events or circumstances:

(i) The issuance of a notice of foreclosure or intent to foreclose;

(ii) The failure of the farm, ranch or business to return a profit during the preceding 12 months;

(iii) The entry of the self-employed individual into bankruptcy proceedings;

(iv) The failure or inability to make payments on loans secured by tangible business assets;

(v) The failure or inability to obtain capital necessary to continue operations;

(vi) A debt-to-asset ratio sufficiently high to be indicative of the likely insolvency of the far, ranch or business; and/or

(vii) Other events indicative of the likely insolvency of the farm, ranch or business.

(3) Family members of individuals identified above under paragraphs (b) (1) and (2) of this section, to the extent that their contribution to the farm, ranch, or business meets minimum requirements as established by the Governor.

(c) The Governor is authorized to establish procedures to identify individuals permanently dislocated from their occupations or fields of work, including self-employment, because of natural disasters. For the purposes of this paragraph (c), categories of natural disasters include, but are not limited to, any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snow storm, drought, fire explosion, or other catastrophe.

Signed at Washington, DC, this 17th day of June, 1987.

Roger D. Semerad,

Assistant Secretary of Labor.

[FR Doc. 87-14235 Filed 6-23-87; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 4 and 5

[Notice No. 633]

Standards of Fill for Wine and Distilled Spirits

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: ATF is considering amending the standard of fill regulations for wine and distilled spirits. Based, in part, on a petition it has received, the Bureau wishes to gather information by inviting comments from the public and industry as to whether the existing authorized standard of fill sizes should be retained, revised or eliminated.

DATE: Written comments must be received on or before August 24, 1987.

ADDRESS: Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 ATTN: Notice No. 633.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

Section 5(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations relating to the "size and fill" of alcohol beverage containers, "as will prohibit deception of the consumer with respect to such products or the quantity thereof...."

In that regard, authorized standards of fill for American and imported wine bottled after December 31, 1978, for sale in interstate commerce within the United States, have been established in 27 CFR 4.73, as follows:

3 liters
1.5 liters
1 liter
750 milliliters
375 milliliters
187 milliliters
100 milliliters
50 milliliters

Section 4.73 also permits the bottling of wine in containers of four liters or more, provided the containers are filled and labeled in quantities of even liters (e.g., 4 liters, 5 liters, 6 liters, etc.).

Authorized standards of fill for all domestic and imported distilled spirits bottled after December 31, 1979, are prescribed in 27 CFR 5.47a, as follows:

1.75 liters
1.00 liters
750 milliliters
500 milliliters
375 milliliters
200 milliliters
100 milliliters
50 milliliters

Recently, however, the 500 ml size was eliminated, with the publication of T.D ATF-228 (May 1, 1986; 51 FR 6167). Beginning July 1, 1989, U.S. Importers and bottlers will not be able to import or bottle distilled spirits in 500 ml containers.

As to standards of fill for malt beverages, on November 19, 1936, the first malt beverage regulations were issued under the FAA Act. From (even before) that time, up through to the present, standards of fill have not been prescribed for malt beverages. According to the record, unlike distilled spirits and wine, malt beverage containers have been fairly well standardized and, consequently, there appeared to be little likelihood of consumer confusion or deception in this area.

That is not to say, however, standards of fill for malt beverages were not *considered.* Late in 1954, certain new beer containers, differing in net contents from the traditional cans and bottles, began to appear on the market.

On February 7, 1955, ATF's predecessor, the Alcohol and Tobacco Tax Division (IRS), issued Industry Circular No. 55-3 informing the industry of possible future hearings to consider the adoption of standards of fill for malt beverages. At approximately the same time, Rev. Rul. 55-131 (1955-1 C.B. 614) was issued, notifying the industry that until a final decision was reached in the matter, *odd size* containers must bear a large and conspicuous statement of net contents on the front label, and in a horizontal position.

A hearing was subsequently held in June (1955). Following the hearing, it was concluded that the establishment of standards of fill for malt beverages was not warranted at that time. Consequently, Rev. Rul. 55-712 (1955-2 C.B. 736) was issued apprising the industry of this finding, and informing them that the requirements for odd size containers, as set forth in Rev. Rul. 55-131, would continue to be in effect. At this time, the provisions of Rev. Rul. 55-131 still apply to malt beverages in odd size containers.

Gray Market (Parallel) Imports

Over the past several years, the alcohol beverage industry has witnessed the emergence of the "gray market" or "parallel" importer. A "gray market" importation occurs when an importer imports authentic foreign wines, distilled spirits, or malt beverages, despite the existence of an exclusive distribution agreement between the foreign trademark owner (producer) and its authorized U.S. importer (distributor).

Many such products are packaged and labeled for the European or other foreign markets, and the package and/or lable

do not always conform with U.S. regulatory requirements. The labeling of such products has been brought into conformity with U.S. regulatory requirements by either affixing a strip label containing the necessary mandatory information, or by making changes to the existing brand and/or back label.

Washington State Petition

Recently, according to the Washington State Liquor Control Board (WSLCB), some foreign producers have started bottling their distilled spirits products in sizes not authorized under ATF regulations (e.g., 740 ml, 800 ml, etc.). Thus, while these products could be shipped into other countries, they could not be imported into the U.S.

This action prompted the WSLCB to file a petition with the Bureau requesting an amendment of the standard of fill requirements for imported distilled spirits. Their proposed amendments would permit the parallel importation of distilled spirits not bottled in an authorized metric standard of fill, provided:

1. The brand of distilled spirit in the nonstandard size is currently being imported into the U.S. in an authorized metric standard of fill, such as 375 ml or 750 ml;

2. The distilled spirit in the nonstandard size qualifies for importation into the U.S. by meeting all other requirements (e.g., safety of ingredients), and;

3. The distilled spirit in the nonstandard size has a strip lable prominently displayed indicating:

(a) The net contents in milliliters, and;

(b) The following statement—

This product is a parallel import, having been intended by the manufacturer for sale in a country other than the United States, and is packaged in a size not normally marketed in the United States. To compare the per liter cost of this product with any other size container, divide the price of each container by its size in milliliters and multiply by one thousand. The resulting figure in each case is the cost per liter for each container.

Subsequent to filing the petition, Washington State submitted an amendment, proposing a waiver of the "design" and (eight percent) "headspace" requirements in § 5.46, for those distilled spirits that have qualified as a parallel import. Thus, a distilled spirits product in an 840 ml bottle could be imported into the U.S., containing 750 ml (10.7% headspace), provided "750 ml" appeared on the label.

Finally, Washington State filed another supplement to their petition, which provided that an importer could not obtain a certificate of label approval (ATF F 5100.31) for the *same* distilled spirits product bottled in both a standard *and* nonstandard size. This would mean, for example, an importer could not import the same brand of distilled spirit in both a 750 ml and 720 ml size.

The petitioners state that the purpose of the standard of fill requirements, issued pursuant to the FAA Act, is to insure that the consumer is not deceived as to the quantity of the product, and that "he or she receives full value for liquor dollars spent." In that regard, the petitioners claim the existing standard of fill requirements are being used for a purpose not intended by Congress, that is, to stifle price competition of imported distilled spirits. As a result, the net amount of money paid by U.S. consumers for imported products is artificially increased.

ATF disagrees with the petitioners' contention that the standard of fill regulations were intended to insure that consumers receive "full value for liquor dollars spent." Section 5(e) of the FAA Act authorizes the issuance of regulations relating to the size and fill of containers as will prevent deception of consumers concerning the identity, quality, or quantity of the product. Section 5(e) does not give ATF the authority to regulate the pricing of alcoholic beverages.

Discussion

Regulations issued pursuant to the FAA Act, relating to standards of fill for distilled spirits and wine, date back over 40 years to 1936 and 1943, respectively. Historically, it has been ATF's position that such standards are necessary, and that without such standards there would be a proliferation of bottle sizes, as well as an increase in the number of bottle sizes that are similar in size and shape, possibly resulting in consumer confusion and deception. Over the years, the Bureau has been petitioned to adopt additional standards of fill, such as a 500 ml size for wine, and a two liter size for distilled spirits. In each instance, the petition was denied, citing the reasons mentioned above.

When ATF established the authorized metric standards of fill for wine (T.D. ATF–12, 1975–1 ATF C.B. 1; December 31, 1974, 39 FR 45216), and distilled spirits (T.D. ATF–25, 1976–1 ATF C.B. 2; March 10, 1976, 41 FR 10217), one of the reasons given was to facilitate international trade, for exported as well as imported products, by using internationally recognized, accepted, and consistent sizes. However, this may no longer be a valid concern of the Bureau's since foreign products, distilled spirits in particular, are now being bottled in various sizes, with no apparent consistency.

In any event, ATF would like to obtain information from consumers and industry members alike, on the issue of standards of fill for wine and distilled spirits, including the proposals made in the WSLCB petition outlined above.

Thus, with the above in mind, the Bureau is soliciting comments on the following questions:

(1) Should the existing standards of fill for wine and distilled spirits be retained and, if so, why?

(2) If the existing standards of fill were to be retained, would you be in favor of, or opposed to, the amendments proposed in the Washington State petition, which would permit the parallel importation of distilled spirits not bottled in an authorized metric standard of fill? We would also note that parallel importers are subject to Customs regulations relating to parallel importations. See 19 CFR 133.21 which, in certain instances, may preclude entry regardless of the standard of fill.

(3) What is your opinion on ATF eliminating the existing standards of fill for wine and distilled spirits, provided the net contents of the container are prominently displayed on the label?

(4) Regarding Nos. 2 and 3 above, is there any additional labeling requirement that could be used to negate consumer confusion as a result of the possible proliferation of bottle sizes?

In addition to the above questions, ATF is soliciting comments on any other suggestions or alternatives related to the issue of standards of fill for wine and distilled spirits.

Executive Order 12291

In compliance with Executive Order 12291, 46 FR 13193 (1981), ATF has determined that this proposal is not a major rule since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the advance notice of proposed rulemaking, if promulgated as

a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this advance notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this advance notice because no requirement to collect information is proposed.

Public Participation

ATF requests comments from all interested persons. All comments received on or before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future action.

ATF will not recognize any material as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure should not be included in the comment. The name of the person submitting the comment is not exempt from disclosure.

During the comment period, any person may request an opportunity to present oral testimony at a public hearing. However, the Director reserves the right, in light of all circumstances, to determine if a public hearing is necessary.

Disclosure

Copies of this notice and the written comments will be available for public inspection during normal business hours at: ATF Reading Room, Disclosure Branch, Room 4406, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC.

Drafting Information

The author of this document is James P. Ficaretta, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms

List of Subjects

27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, Wine.

27 CFR Part 5

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Liquors, Packaging and containers.

Authority

This advance notice of proposed rulemaking is issued under the authority in 27 U.S.C. 205.

Signed: May 29, 1987.

Stephen E. Higgins,

Director.

Approved: June 9, 1987.

John P. Simpson,

Acting Assistant Secretary (Enforcement).

[FR Doc. 87-14298 Filed 6-23-87; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 240

Water Resources Policies and Authorities; General Credit for Flood Control [ER 1165-2-29]

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Proposed rule.

SUMMARY: The proposed regulation provides guidelines and procedures for application of the provisions of section 104 of Pub. L. 99-662. Those provisions deal, primarily, with the giving of credit, for flood control works accomplished by non-Federal interests, toward local cooperation that would otherwise be required in connection with a related Federal flood control project authorized to be implemented by the Corps of Engineers. The full text of section 104 is reproduced as Appendix A to the proposed regulation. Subsection 104(a) specifies that these guidelines shall be promulgated after notice in the **Federal Register** and opportunity for comment.

DATES: Comments must be submitted on or before August 24, 1987.

ADDRESS: Send comments to HQUSACE, Directorate of Civil Works, ATTN: DAEN-CWR-R, Washington, DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: David Brouwer or Don Rogers at (202) 272-0123.

SUPPLEMENTARY INFORMATION: This regulation is not a major rule within the meaning of E.O. 12291 requiring preparation of a regulatory impact analysis. It will not result in an annual effect on the economy of $100 million or more and it will not result in a major increase in costs or prices.

Pursuant to 5 U.S.C. 605(b) I hereby certify that this regulation will not have a significant economic impact on a substantial number of entities.

List of Subjects in 33 CFR Part 240

Credit, Flood control, Intergovernmental relations, Public works, Water resources.

John O. Roach II,

Army Liaison Officer With the Federal Register.

Part 240 is proposed to be added to 33 CFR to read as follows:

PART 240—GENERAL CREDIT FOR FLOOD CONTROL

[ER 1165-2-29]

Sec.

Authority: Section 104, Water Resources Development Act of 1986 (Pub. L. 99-662).

§ 240.1 Purpose.

This establishes guidelines and procedures for Department of the Army application of the provisions of section 104 of Pub. L. 99-662.

§ 240.2 Applicability.

Policies and procedures contained herein apply to all HQUSACE elements and field operating agencies of the Corps of Engineers having Civil Works responsibilities.

§ 240.3 Reference.

Section 104 of Pub. L. 99-662.

§ 240.4 Legislative provisions.

Section 104 of Pub. L. 99-662 authorizes and directs the development of guidelines which include criteria for determining whether work carried cut by local interests is compatible with a project for flood control. Compatible

work which was carried out prior to project authorization, before November 17, 1986 but after November 17, 1981, may be considered part of the project and credited against the non-Federal share of the cost of project, if the local sponsor applied for consideration of such work not later than March 31, 1987. Local work to be carried out after November 17, 1986 must receive Army approval prior to construction to be eligible for credit, taking into account the economic and environmental feasibility of the project. The credit will not relieve the non-Federal sponsor of the requirement to pay 5 percent of the project costs in cash during construction of the remainder of the project. This legislative authority also provides that benefits and costs of compatible work will be considered in the economic evaluation of the Federal project. This includes the costs and benefits of compatible local work which was carried out after November 17, 1981 or within the 5 years prior to the initial obligation of reconnaissance study funds if that should establish a later date.

§ 240.5 Discussion.

Discussion of this legislation is contained in the Conference Report, H.R. Rept. No. 99–1013, which accompanies H.R. 6. The House passed version of the bill contained a number of project-specific provisions that authorized credit against the non-Federal share for compatible work completed by local interests. In addition, it contained a general authority which provided that the cost of compatible local work for flood protection could be credited, if it were carried out after project authorization or the date of bill enactment, whichever was later. The Senate passed version authorized crediting of compatible flood control works for projects under study. Both general provisions would enable local interests to proceed with compatible work on the understanding that the local improvements would be considered a part of the Federal project for the purpose of benefit-to-cost analysis, as well as subsequent cost sharing. The Conference Committee deleted virtually all of the crediting provisions applicable to individual projects and expanded the general provision allowing the Secretary to credit the cost of certain work undertaken by local interests against the non-Federal share of project costs and to consider the benefits and costs in the economic evaluation of a more comprehensive project. This authority provides a basis for non-Federal interests to undertake local work to alleviate flood damages in the period preceding authorization and construction of a Federal project with assurance that they will not adversely affect the project's economic feasibility. It provides local sponsors more flexibility in meeting their flood problems.

§ 240.6 General policy.

(a) Section 104 provisions will be applied only at locations where Federal construction of a congressionally authorized project, or separable element thereof, is initiated after April 30, 1986; a congressionally authorized study is underway; or where the feasibility report has been forwarded for Executive Branch review or for consideration by Congress. If a study is underway, a credit recommendation will not be made prior to the final public meeting and filing of a draft EIS with EPA. A credit recommendation will be in response to a specific request from a State, city, municipality or public agency that is the prospective local sponsoring agency for the contemplated Federal plan.

(b) Work eligible for crediting shall be limited to that part of the local improvement directly related to a flood control purpose. (These guidelines, although they generally make reference to flood control "projects," should be understood to have equivalent application to allocated flood control costs in a multiple purpose project.) Structures built for channel alignment, navigation, recreation, fish and wildlife, land reclamation, drainage, or to protect against land erosion, and which, in conjunction with the project, do not produce appreciable and dependable effects in preventing damage by irregular and unusual rises in water levels, are not classed as flood control works and are ineligible for credit.

(c) Future work proposed for crediting must meet the following minimum requirements:

(1) The work will be separately useful for flood control or other purposes even if the Federal Government does not construct the contemplated project; and

(2) The work accomplished by the non-Federal entity will not create a potential hazard.

(d) For local work initiated before November 17, 1986, but after November 17, 1981, the local sponsoring agency must have requested consideration by letter dated on or before March 31, 1987. For authorized projects, new local work initiated after November 17, 1986 and before the effective date of this regulation may be eligible for credit, but the amount of credit, if any, will be determined after the effective date. For new local work commenced after the effective date, only work carried out after the sponsor is notified of its compatibility and extent of potential credit pursuant to § 240.9(c) shall be eligible for credit, except for local engineering work noted below in paragraph (h) of this section.

(e) The maximum amount creditable shall equal the actual expenditures made by the non-Federal entity for work that meets the criteria set forth above and in §§ 240.7 or 240.8. However, the amount actually credited will not exceed the amount that is a reasonable estimate of the reduction in Federal project expenditures resulting from substitution of the local work for authorized project elements or, in the case of compatible work outside the scope of the project as originally authorized, a reasonable estimate of what Federal expenditures would have been if that work had been Federally constructed. Costs of subsequent maintenance of the creditable non-Federal flood control work will not be credited. In the event that the local construction work is financed by a Federal non-reimbursable grant or other Federal funds, the amount creditable against future local cooperation requirements shall be reduced by a commensurate amount, unless the law governing the grant permits grant funds to be used to meet the non-Federal share of Corps of Engineers cost sharing requirements. However, there will be no corresponding reduction in the costs or benefits considered in the project's economic evaluation.

(f) Regardless of the total amount creditable for compatible work at the time of construction, the local sponsor will be required to contribute 5 percent of the total project cost in cash. The credit can only be applied toward the value of needed lands, easements, rights-of-way, relocations, and disposal areas (LERRD) the sponsor would otherwise have to provide plus any additional required cash contribution needed to make the total sponsor contribution equal at least 25 percent of total project costs. As a consequence of crediting non-Federal construction costs against LERRD requirements some costs for LERRD may become a Federal responsibility.

(g) Reimbursement to non-Federal interests will not be made for any excess of costs for compatible works beyond that which can be credited in accordance with paragraph (f) of this section. In this regard, reimbursements pursuant to section 103(a)(3) of Pub. L. 99–662 will not be made should the non-Federal share of project-related costs exceed 50 percent of total project-

related costs by virtue of such excess of costs for compatible work.

(h) Local interests are responsible for developing all necessary engineering plans and specifications for the work they propose to undertake. However, those costs, including engineering and overhead, directly attributable to the creditable part of local work may be included in the amount credited.

(i) Non-Federal costs in connection with LERRD required for the Federal project, regardless of when incurred, will be recognized in computation of the LERRD component of project costs (the credit provisions of Section 104, Pub. L. 99–662, have no direct bearing on this).

(j) Non-Federal construction and LERRD costs in connection with compatible work for which credit can be given will, when those costs are incorporated in project costs, be included in their related categories, and total project cost sharing responsibilities will be adjusted accordingly.

§ 240.7 Credit criteria for projects authorized on or before November 17, 1986.

(a) For work accomplished prior to project authorization, the following local improvements can be construed as compatible and considered for credit:

(1) Work that would constitute an integral part of the Federal project (integral work);

(2) Work that would have been included in the Federal project if it had not been assumed to be part of the without project condition (external work); and

(3) Work that reduces the construction cost of the Federal plan (substitute work).

If work that is not part of the Federal plan as authorized increases the total project cost by more than 20 percent on a project authorized in Pub. L. 99–662 then, pursuant to section 902 of Pub. L. 99–662, congressional approval of increased project costs will be necessary. If work that is not part of the Federal project plan as authorized materially alters the scope or function of any project, so as to constitute a significant post authorization change, congressional approval will be necessary.

(b) For local work initiated after the effective date of this regulation, only work that has the effect of reducing the remaining construction cost of the Federal project as authorized will be eligible for credit under the provisions of section 104. Where it would be work on an element of the Federal project, such work should be undertaken under formal agreement pursuant to section 215 of the River and Harbors Act of 1968, Pub. L. 90–483, approved August 13, 1968.

(c) All creditable non-Federal costs for compatible work, and related benefits, may be considered in the project economic evaluation and, to the extent the related benefits are required for economic justification, creditable costs shall be included in total project first costs. In any event, costs for compatible work shall be included in total project first costs to at least the extent that credit is actually given, including LERRD.

(d) Flood control projects authorized in Pub. L. 99–662 subject to sections 903 (a) and (b) of that act fall, with respect to crediting non-Federal costs, under this paragraph. (However, pending completion of the relevant procedural requirements for such projects, as set forth in those provisions of the act, section 215 agreements covering proposed non-Federal accomplishment of compatible work on the project will not be executed.) Works eligible for credit will be explicitly addressed in project reports submitted to the Secretary of the Army pursuant to sections 903 (a) and (b).

(e) Formulas for determining the amount of allowable credit in accordance with these guidelines are provided in Appendix A.

§ 240.8 Credit criteria for projects authorized after November 17, 1986.

(a) In general, for projects authorized after November 17, 1986, work eligible for credit will be explicitly addressed in recommendations to Congress. If a report has been submitted to Congress, work on an element of the recommended Federal project or work that reduces its construction cost can be considered for credit.

(b) Local work initiated after November 17, 1981 or within 5 years before the reconnaissance study began, whichever is later, can be incorporated into the recommended plan for the purpose of economic evaluation. However, credit for local work can be recommended only if the conditions in § 240.6 (b) through (d) are met.

(c) Reports recommending Federal participation in a plan should include the following, "Future non-Federal expenditures for improvements that, prior to their construction, are found to be compatible with the plan recommended herein, as it may be subsequently modified, will entitle the (*sponsor's name*) to consideration for credit in accordance with the guidelines established under section 104, Pub. L. 99–662.

(d) All costs for non-Federal work incorporated in the recommended plan either prior to authorization or after authorization in accordance with this paragraph shall be included in total project first costs and will therefore be subject to cost sharing. Related benefits will be included in the project's economic evaluation.

§ 240.9 Procedures.

(a) Non-Federal entities desiring credit under the provisions of section 104 of Pub. L. 99–662 should confer with the District Engineer and submit a written application to him. The application will include a full description of planned work, plans, sketches, and similar engineering data and information sufficient to permit analysis of the local proposal.

(b) The District Engineer shall review the engineering adequacy of the local proposal and its relation to the Federal plan and determine what part of the proposed local improvement would be eligible for credit. The District Engineer will forward his recommendations through the Division Engineer and the Chief of Engineers to the Assistant Secretary of the Army (Civil Works) and provide information on:

(1) Basis for concluding the local plan is appropriate in relation to the prospective Federal plan.

(2) Total estimated cost and benefits of creditable work.

(3) Environmental effects of the local work, including a brief statement of both beneficial and detrimental effects to significant resources.

(4) The urgency for proceeding with the local plan. (If the final feasibility report is not available, a copy of the draft feasibility report also should be provided.)

(c) Upon being informed of the Secretary's decision, the District Engineer shall reply by letter stating to the local applicant what local work and costs can reasonably be expected to be creditable (or recommended for credit if a Federal project is not yet authorized) under the provisions of section 104. If the improvement proposed by the non-Federal entity includes work that will not become a part of the Federal project, the means of determining the part eligible for credit shall be fully defined. This letter shall include the following conditions:

(1) This shall not be interpreted as a Federal assurance regarding later approval of any project nor shall it commit the United States to any type of reimbursement if a Federal project is not undertaken.

(2) This does not eliminate the need for compliance with other Federal, State, and local requirements, including any

requirements for permits, Environmental Impact Statements, etc.

(3) Approval shall expire 3 years after the date of this letter if the work has not commenced.

(d) The non-Federal entity will notify the District engineer when work commences. The District Engineer will conduct periodic and final inspections. Upon completion of local work, local interests shall provide the District Engineer details of the work accomplished and the actual costs directly associated therewith. The District Engineer shall audit claimed costs to ascertain and confirm those costs properly creditable and shall inform the non-Federal entity of the audit results.

(e) During further Corps studies, the local work actually accomplished that would constitute a legitimate part of the overall recommended Federal project may be incorporated within any plan later recommended for implementation.

(f) The District Engineer shall submit a copy of his letter and notification of creditable costs of completed work to the Secretary through the Division Engineer and the Chief of Engineers.

(g) All justification sheets supporting new start recommendations for Preconstuction Engineering and Design or Construction of projects will include information on credits in the paragraph on local cooperation. The information should include but not be limited to date of the District Engineer's letter to the sponsor pursuant to paragraph (c) of this section, status of the creditable work, estimated or actual cost of the work and the estimated amount of credit.

Appendix A—Formulas for Determining Amount of Allowable Credit

1. *General.* The amount of credit that non-Federal interests may receive under the provisions of section 104 of the Water Resources Development Act of 1986 depends first on the value of the compatible work they have accomplished and then on the value of the local cooperation against which they may receive credit. If the compatible work is for construction which was outside the scope of the project as authorized, the costs for the compatible work for which credit is desired are additive to the original estimate of total project cost. This increases the estimated cost of basic local cooperation requirements, thus enlarging the target against which credit may be given.

2. The "formulas" for determining the amount of credit that may be allowed in the various cases are provided in the following paragraphs. TPC means the total estimate of project costs for the project as it was authorized. LERRD means the costs for lands, easements, rights-of-way, relocations and disposal areas as included in that estimate.

3. Calculations for several hypothetical examples are provided to illustrate how crediting determinations would impact on project costs and on cost sharing. For each of these examples it is assumed that the estimated total project cost (TPC) of the project as authorized is $100.0 million. All of the elements of cost are given in millions of dollars.

4. *Integral Work.* For compatible work that is integral with the project as authorized [240.7(a)(1)] or compatible work that constitutes an advantageous substitution for work integral with the authorized project [i.e. substitute work, 240.7(a)(3)]:

a. LERRD <20% TPC
Credit = Value of compatible work up to 20% TPC

b. LERRD >20% TPC
Credit = Value of compatible work up to LERRD

Crediting non-Federal interests for constructing an integral part of the project or substitute work will not result in any increase in project costs. Ordinarily, the result will simply be a transfer of equivalent responsibilities between the Corps and non-Federal interests. If non-Federal interests should accomplish compatible integral or substitute work exceeding the possible credit, the Corps will be relieved of the expense of constructing an increment of the project. An example is provided below. In this example, non-Federal interests have accomplished integral project work amounting to 30.0 million. LERRD are less than 20% of TPC so that the maximum value of local cooperation against which they may receive credit is $20.0 million. Since the $10.0 for which credit cannot be given nonetheless represents useful project work, in this example the Corps would be relieved of the costs for accomplishing that much construction.

Case: LERRD <20% TPC	Basic project	Credit example 1—Compatible work—30.0
Non-Federal:		
5% Cash	5.0	5.0
LERRD	14.0	0.0
Extra cash (toward constr.)	6.0	0.0
Construction (actual)		30.0
Subtotal	25.0	35.0
Federal:		
Construction	75.0	51.0
LERRD		14.0
Subtotal	75.0	65.0
TPC	100.0	100.0
Reduction in Federal costs		[1]10.0

[1] The amount by which the integral or substitute work actually accomplished by non-Federal interests exceeds the requirements of local cooperation against which credit may be given.

5. *External Work.* For compatible work outside the scope of the project as authorized [i.e. external work, 240.7(a)(2)]:

a. LERRD <25% TPC
Credit = Value of compatible work up to 25% TPC

b. LERRD >25% TPC
Credit = Value of compatible work up to LERRD

Crediting non-Federal interests for compatible work which was not part of the project as authorized (external work) will result in an increase in project costs and an increase in net Federal costs. The costs for compatible external work for which non-Federal interests desire credit must be incorporated into the estimate of total project costs (but only to the extent that credit can actually be given). Assigned Federal and non-Federal project costs then making up the adjusted total project costs will both be greater than for the basic project. However, the net effect will be a savings to non-Federal interests in the further costs they will have for fulfilling local cooperation requirements. The maximum amount that can be credited for compatible external work (and thus added to project costs), where LERRD <25% TPC, follows from Credit, C=20%(TPC+C) which reduces to C=0.2TPC+0.2C, then to 0.8C=0.2TPC, and finally C=(0.2/0.8)TPC or 0.25TPC as indicated in a, above. An example of crediting in a case involving external work is provided below. In this example, as in example 1, non-Federal interests have accomplished work amounting to $30.0 million. This work, however, was not integral with the project as authorized (it has been determined to be compatible external work), so that any part of it for which credit is given must be added to TPC. Since, in this case LERRD are less than 25% of TPC, the maximum amount that can be credited is 25% of TPC, or $25.0 million. Adjusting TPC by this amount results in an added Federal cost of $18.75 million (75% of the $25.0 million increase).

Case: LERRD <25% TPC	Basic project	Credit example 2—Compatible work—30.0
Non-Federal:		
5% Cash	5.0	6.25
LERRD	14.0	0.0
Extra cash (toward constr.)	6.0	0.0
Construction (actual)		25.0
Subtotal	25.0	31.25
Federal:		
Construction	75.0	79.75
LERRD		14.0
Subtotal	75.0	93.75
TPC	100.0	
Adjusted TPC		125.0
Excess of Compatible Work		[1] 5.0
Increase in Federal Costs		[2] 18.75

[1] This portion of the compatible external work is not incorporated in the project costs because it would be a disadvantage to the project sponsor to do so (if included, the sponsor would become obligated for an additional 5% up-front cash contribution but without any savings in other local cooperation

because there would be nothing left to give credit against).

[2] This is also the measure of the net savings to non-Federal interests by virtue of crediting.

6. *Combined integral and external works.* For cases where non-Federal interests have accomplished compatible work, some of which is integral with the project as authorized and some of which is outside the original scope (external), determination of the allowable credit is a two step process. Work that is integral to the project is credited first. This, C1, is accomplished in accordance with paragraph 4 above. If, after this step, there remain local cooperation requirements against which credit may be given, credit for compatible external work, C2, is determinable on the following basis.

a. LERRD ≤20% (TPC+C2)
C2=Value of compatible work up to 25%TPC−1.25C1

b. LERRD >20% (TPC+C2)
C2=Value of compatible work up to remaining LERRD

Note that total credit, C=C1+C2. Formula 6.a. is derived from C=C1+C2=20%(TPC+C2). An example of crediting in a case involving both kinds of compatible works is provided below. In this example non-Federal interests have accomplished $25.0 million in compatible work, $5.0 of which was integral with the project as authorized and $20.0 of which was external. The integral work is credited in the first step against the extra cash component of the original local cooperation requirements. TPC is unaffected; however, the target against which credit for the external work might be credited has been partially used up. The second step shows only the incremental effects of crediting external work. Using 6.a. the maximum credit that can be given for this work is $18.75 million. Although other non-Federal requirements are extinguished as a result of the credit for the external work, the non-Federal 5% cash contribution increases by $0.9375 million, say $0.94 (5% of $18.75). In the final step, the incremental effects of crediting the external work are added in with the values obtained in step 1.

Case: LERRD ≤20% (TPC+C2)	Basic project	Credit example 3— Compatible work—[1] 25.0		
		Step 1	Step 2	Final
Non-Federal:				
5% Cash	5.0	5.0	0.94	5.94
LERRD	14.0	14.0	0.0	0.0
Extra cash (toward constr.)	6.0	1.0	0.0	0.0
Construction (actual)		5.0	18.75	23.75
Subtotal	25.0	25.0		29.69
Federal:				
Construction	75.0	75.0	0.06	75.06
LERRD			14.0	14.0
Subtotal	75.0	75.0		89.06
TPC	100.0	100.0		
Adjusted TPC				118.75
Excess of Compatible Work			1.25	1.25
Increase in Federal Costs				14.06

[1] Compatible work consisting of 5.0 integral work credited in first step of calculations plus 20.0 external work credited, to the extent possible, in second step.

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BILLING CODE 3710-92-M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. RM 86-1B]

Copyright Registration for Colorized Versions of Black and White Motion Pictures; Proposed Rulemaking

AGENCY: Copyright Office, Library of Congress

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking is issued to inform the public that the Copyright Office of the Library of Congress has determined that claims to copyright in certain computer-colorized versions of black and white motion pictures may be registered upon compliance with proposed new deposit requirements. The notice informs the public and invites comment with respect to proposed regulations that would require the deposit of a black and white print along with a copy of the computer-colorized version in order to register a claim to copyright in the selection of colors.

DATES: Written comments should be received on or before July 24, 1987.

ADDRESSES: Ten copies of written comments should be addressed, if sent by mail, to: Library of Congress, Department 100, Washington, DC 20540; if delivered by hand, copies should be brought to: Office of the General Counsel, U.S. Copyright Office, James Madison Memorial Building, Room 407, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, DC 20559. Telephone (202) 287-8380.

SUPPLEMENTARY INFORMATION:

Registration of Colorized Black and White Motion Pictures As Derivative Works

1. Background

An existing Copyright Office regulation provides that "mere variations of coloring" are not subject to copyright. 37 CFR 202.1(a). This does not preclude registration where the work contains some other elements of originality such as an original arrangement or combination of colors. Courts have held that while color *per se* is uncopyrightable and unregistrable, arrangements or combinations of colors may warrant copyright protection.[1]

Between 1985 and 1986, several parties submitted the colorized versions of ten motion pictures and one television program to the Copyright Office for registration of the colorized version as a derivative work. The Copyright Office did not register any of these works. Because of the unusual nature of the claimed authorship and to obtain information about the process of creating the colorized versions from persons other than the claimants, on September 15, 1986, the Copyright Office published a Notice of Inquiry in the **Federal Register** (51 FR 32665) and invited public comment regarding the registrability of colorized films.

In all 46 comments (43 original and three reply) were filed with the Copyright Office. After studying the comments, the Copyright Act, and the case law, the Copyright Office concluded that certain colorized versions of black and white motion pictures are eligible for copyright registration as derivative works. On June 22, 1987 the Copyright Office published its decision regarding registration for computer-colorized films at 52 FR 23443. We stated that proposed deposit requirements for registration of computer-colorized films would be published separately. The purpose of this Notice is to propose such rule and invite public comment on them.

[1] *See also* 1 NIMMER ON COPYRIGHT 3 section 2.14 (1985).

2. Deposit of Black and White Version

To facilitate examination of the claim to copyright in the computer-colorized version, at least one commentator suggested that the Copyright Office should require the deposit of a black and white version as well as a colorized copy. Authority for this requirement exists under the general rulemaking authority of 17 U.S.C. 702. In addition, the Register of Copyrights is specifically authorized to specify by regulation, the "nature of the copies or phonorecords to be deposited in the various classes specified." 17 U.S.C. 408(c)(1).

The Copyright Office has decided to propose regulations that would require claimants of copyright in computer-colorized versions of motion pictures to deposit one copy each of the colorized version and of the black and white print from which the colorized version was prepared. Comparison of both copies will enable an examiner to determine better whether the colorized version satisfies the applicable standards for copyright registration. Deposit of the black and white version will also enrich the collections of the Library of Congress since in many cases the older black and white films were never registered or otherwise deposited with the Library.

3. Regulatory Flexibility Act Statement

With respect to the Regulatory Flexibility Act, the Copyright Office takes the position that this Act does not apply to Copyright Office rulemaking. The Copyright Office is a department of the Library of Congress and is a part of the legislature branch. Neither the Library of Congress nor the Copyright Office is an "agency" within the meaning of the Administrative Procedure Act of June 11, 1946, as amended (Title 5 Chapter 5 of the U.S. Code, Subchapter II and Chapter 7). The Regulatory Flexibility Act consequently does not apply to the Copyright Offie since that Act affects only those entities of the Federal Government that are agencies are defined in the Administrative Procedure Act.[2]

[2] The Copyright Office was not subject to the Administrative Procedure Act before 1978, and it is now subject to it only in areas specified by section 701(d) of the Copyright Act (i.e., "all actions taken by the Register of Copyrights under this title [17]," except with respect to the making of copies of copyright deposits). [17 U.S.C. 706(b)]. The Copyright Act does not make the Office an "agency" as defined in the Administrative Procedure Act. For example, personnel actions taken by the Office are not subject to APA-FOIA requirements.

Alternatively, if it is later determined by a court of competent jurisdiction that the Copyright Office is an "agency" subject to the Regulatory Flexibility Act, the Register of Copyrights has determined and hereby certifies that this proposed regulation will have no significant impact on small businesses.

List of Subjects in 37 CFR Part 202

Claims, Claims to copyright, Copyright registration.

Proposed Regulations

In consideration of the foregoing, the Copyright Office proposes to amend Part 202 of 37 CFR, Chapter II.

1. The authority citation for Part 202 would continue to read as follows:

Authority: Copyright Act, Pub. L. 94-553, 90 Stat. 2541 [17 U.S.C. 702].

2. Section 202.20(c)(2)(ii) would be amended by adding the following sentence at the end thereof:

§ 202.20 Deposit of copies and phinore cards for copyright registration.

* * * * *

(c) * * *

(2) * * *

(ii) *Motion pictures.* * * * In the case of colorized versions of motion pictures made from pre-existing black and whitre motion pictures, in addition to the deposit of one complete copy of the colorized motion picture and the separate description of its contents as specified above, the deposit shall consist of one complete print of the black and white version of the motion picture from which the colorized version was prepared.

* * * * *

Dated: June 18, 1987.

Ralph Oman,

Register of Copyrights.

Approved by.

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 87-14342 Filed 6-23-87; 8:45 am]

BILLING CODE 1410-03-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-3222-6]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: USEPA is proposing to approve a revision to the Minnesota State Implementation Plan (SIP) for Total Suspended Particulate (TSP). The revision pertains to Minnesota's plan for reducing TSP emissions during grain loading. USEPA's action is based upon a July 9, 1986, revision request which was submitted by the State (1) in response to a condition on USEPA's May 6, 1982, approval of Minnesota's Part D SIP for TSP (47 FR 19520), and (2) to satisfy the requirements of Part D of the Clean Air Act (Act).

DATE: Comments on this revision and on the proposed USEPA action must be received by July 24, 1987.

ADDRESS: Copies of the SIP revision and USEPA's technical support documents are available at the following addresses for review: (It is recommended that you telephone Robert B. Miller, at (312) 353-0396, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Minnesota Pollution Control Agency, Division of Air Quality, 520 Lafayette Road, St. Paul, Minnesota 55155.

Comments on this proposed rule should be addressed to: (Please submit an original and three copies, if possible.) Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, Air and Radiation Branch (5AR-26), Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 353-0396.

SUPPLEMENTARY INFORMATION: Under section 107 of the Act, USEPA has designated certain areas in each State as not attaining the National Ambient Air Quality Standards (NAAQS) for particulate matter (total suspended particulates).[1] In Minnesota, this included portions of the Twin Cities area and the City of Duluth. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). For these areas, Part D of the Act requires that the State revise its SIP to provide for attaining the NAAQS. The requirements for an approvable SIP are described in a "General Preamble" for Part D rulemakings published at 44 FR 20372

[1] The primary TSP NAAQS is violated when, in a year, either (1) the annual geometric mean value of TSP concentrations exceeds 75 micrograms per cubic meter of air (75 ug/m^3) (the annual primary standard), or (2) the maximum 24-hour concentration of TSP exceeds 260 ug/m^3 more than once (the 24-hour standard). The secondary TSP is violated when, in a year, the maximum 24-hour concentration exceeds 150 ug/m^3 more than once.

(April 4, 1979), 44 FR 38583 (July 2, 1979), 44 FR 50371 (August 28, 1979), 44 FR 53761 (September 17, 1979), and 44 FR 67182 (November 23, 1979).

On August 4, 1980, and October 17, 1980, Minnesota submitted its Part D TSP SIP. This submittal was based on requiring all industrial sources to control their emissions to levels obtainable from reasonably available control techniques (RACT) and to commit to study non-traditional fugitive emissions, e.g. road dust reentrainment.

USEPA conditionally approved this submittal on May 6, 1982. (For more detail on conditional approvals, see 44 FR 38583 (July 2, 1979) and 44 FR 38583 (November 23, 1979).) The condition required Minnesota to submit RACT level opacity requirements for grain loading facilities. See 40 CFR 52.1230(a). On July 9, 1986, Minnesota submitted to USEPA the following documents:

1. Minnesota Rules Parts 7005.2520 through 7005.2523—Standards of Performance For Dry Bulk Agricultural Commodity Facilities. (Predecessors to this regulation were formerly codified as APC 29.)
2. Appendix E—Barge loading opacity limitation interpretative statement.
3. Permit No. 246D–82–OT–04 and amendments No. 1 and No. 2 for General Mills facility at 200 Garfield, Duluth, Minnesota.
4. Permit No. 945 D–84–OT–1 and amendments No 1 and No. 2 for International Multifoods facility at 600 Garfield, Duluth, Minnesota.
5. Permit No. 77B–84–OT–1 and amendments No. 1 and No. 2 for Cargill Inc. Elevators B1, B2, and C in Duluth, Minnesota.

The State requested that, as a revision to the Minnesota SIP, USEPA take rulemaking action on Parts 7005.2520 through 7005.2523, Appendix E, and the following portions only of the three amended operating permits for General Mills, Cargill, and International Multifoods in Duluth:

1. *Cargill* (as amended)
   - Part I.A.
   - Part I.A.17., 20, and 28
   - Part II.A.1.a. and b.
   - Part II.A.2.a.1 and 2.
   - Part II.A.3.c., d., and e.
   - Part II.A.4., 5., 9., 10., and 11.
   - Part II., Effective Date of Amendment, Amendment Nos. 1 and 2
2. *General Mills* (as amended)
   - Part I.A.
   - Part I.A., The last paragraph under this section (Emission Facility) should indiate "eight" not "two" loading spouts.
   - Part I.B.1., 2., 3., and 4.
   - Part II.A.1. and A.2.a. and b.
   - Part II.A.3.b.
   - Part II.A.4.a.(1)–(5)
   - Part II.A.4.b. and c.
   - Part II.A.9.
   - Part II.B.6. and 7.
   - Part II., Effective Date of Amendment, in Amendment No. 1
3. *International Multifood* (as amended)
   - Part I.A.
   - Part II.A.1.a, 2.a., and b.
   - Part II.A.3.c.(1), (2), (3)
   - Part II.A.4., 5.a. and b., and 9.
   - Part II.A.10.a., b., and c.
   - Part II.A.11. and 12.
   - Part II., Effective Date of Amendment in Amendment No. 1.

USEPA has reviewed these revisions, finds that when taken as a whole they require RACT-level TSP controls on the existing grain loading facilities in Minnesota's TSP nonattainment areas,[2] and is proposing to approve them.

USEPA's complete analysis of these requirements is contained in its technical support documents available at the addresses listed at the front of this notice. A short description of each element in the plan follows:

Grain Handling Regulation

The revised grain handling regulation is composed of Part 7005.2520, Definitions: Part 7005.2521, Standards of Performance for Dry Bulk Agricultural Commodity Facilities; Part 7005.2522, Nuisance; and Part 7005.2523, Control Requirements Schedule. The regulation requires all commodity facilities to employ good housekeeping procedures, i.e., cleaning up spills, keeping control equipment in proper operating order, and using it. Commodities are to be unloaded, handled, cleaned, dried, and loaded to minimize fugitive emissions to a level consistent with RACT. Capture systems, when used, must have a minimum collection efficiency of 85%, by weight. In grain drying, perforations in column dryer screens may not exceed $\frac{3}{32}$ inches in diameter and emissions from a rack dryer must past through a 50-mesh screen enclosure before being exhausted to the atmosphere.

It requires more stringent emission limits or controls on all facilities which either (1) are located in the Minneapolis-St. Paul AQCR (AQCR 131–Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties), (2) are located in cities with a population of greater than 7,500, or (3) have an annual commodity throughput of more than 180,000 tons. It also requires these additional limits of all facilities located in cities of less than 7,500, if their annual throughput is between 120,000 and 180,000 tons and they were constructed, modified, or reconstructed in 1984 or after.

These additional controls or requirements limit opacity (visible emissions) to 5% for truck unloading, railcar unloading, or handling operations (7005.2521(3)(A)). They limit truck loading to 10% emissions. Fugitive emissions from ship and barge loading are limited to 20% opacity, except where normal loading procedures are not feasible during trimming. Emissions from control equipment are regulated by the mass limits in Part 7005.0520 (formerly codified in APC 5, which was approved as a portion of the SIP on May 6, 1982) and a 10% opacity limit in Part 7005.2521(3)(D), except that facilities constructed before 1984 and located both outside of AQCR 131 and in areas with populations of less than 7,500 can show compliance if their control equipment has a collection efficiency of at least 85% by weight.

USEPA is proposing to approve Parts 7005.2520 through 7005.2523 because, in combination with the requirements of Appendix E and site-specific requirements (discussed and also being proposed for approval below), they (1) require RACT-level emission limits on ship and barge loading in nonattainment areas and (2) maintain or tighten TSP emission limits in attainment areas and, thereby, provide for maintenance of the NAAQS. USEPA notes that certain requirements in the site-specific operating permits apply to the same emission points at these sources and are more stringent than those in Parts 7005.2520 through 7005.2523. Under these circumstances, all requirements in both the regulations and the permits must be met, with the more stringent requirements, obviously, being the controlling factors.

Appendix E, Barge Loading Opacity Limitations

Appendix E is an April 18, 1986, statement by Thomas J. Kalitowski, Executive Director, Minnesota Pollution Control Agency, which describes the actual situation regarding barge loading

[2] Minnesota's plan is based on assuring RACT regulations for existing sources in TSP nonattainment areas. The present SIP assures that new sources will also meet RACT emission limits. First, the section 110(a)(2)(I) growth sanctions are currently in effect in Minnesota's primary TSP nonattainment areas, because Minnesota does not have an approved Part D new source review SIP. Even if this ban were lifted, new sources being built in these areas would be subject to the New Source Performance Standard of 40 CFR Part 60 Subpart DD, Standards of Performance for Grain Elevators, and either the best available control technology (BACT) requirements of the Part C and the Act (Prevention of Significant Deterioration) or the Lowest Achievable Emission Rate (LAER) requriement of Part D of the Act.

in Minnesota TSP nonattainment areas. Appendix E states that with respect to barge loading facilities in nonattainment areas, the exemptions from the 20% opacity limit allowed in Part 7005.2521(3)(C) do not apply because the barge loading procedures do not depart from "normal loading" during topping off and barge loading does not require any trimming.

USEPA is proposing to approve Appendix E as a portion of the SIP, because the description of the actual operating procedures to which it attests shows that all barge loading facilities in Minnesota's nonattainment areas are required to meet the 20% RACT-level opacity limit at all times. Such approval of Appendix E would mean that the State and USEPA would require a 20% opacity limit to be met at all times by barge loading facilities in Minnesota's TSP nonattainment areas.

Operating Permits for Ship Loading

Minnesota submitted site-specific operating permits, with amendments, for three ship loading facilities in Duluth. These facilities are General Mills at 200 Garfield, International Multifoods at 600 Garfield, and Cargill, Inc. elevators B1, B2, and C. Minnesota requested USEPA to approve, as a part of its SIP, specified portions of the permits. The portions of these permits Minnesota specified are listed in the front of this notice.

These permits (1) give site-specific limits for opacity, e.g., 20% opacity during shiploading, (2) require certain work practices and techniques to minimize fugitive emissions, e.g., during shiploading, requiring the extension of a spout to the longest possible length and as close to the bottom of the ship hold as possible, and (3) require the use of specific control equipment at specified facilities on all emission points, eg., require the use of a baghouse whose efficiency is approximately 99.3%.

USEPA notes that certain requirements in these permits do not directly apply to shiploading itself, but do apply to emissions from other operations at these shiploading facilities. USEPA is proposing to approve all of the requirements specified by Minnesota for action, whether directly related to shiploading or a peripheral operation, because they all meet the requirements of RACT. Additionally, USEPA notes that one of the items in the General Mills' permit gives estimated emissions from certain sources. If USEPA approves this portion of the permit, as Minnesota requested and USEPA is proposing, these estimates cannot be used for offsets or other similar purposes because estimates per se cannot be enforceable emission limits.

USEPA has reviewed these permits and finds that they require RACT-level controls and practices at the three shiploading facilities. It, therefore, is proposing to approve the requirements specified by Minnesota in these permits, as listed above, as a part of the Minnesota TSP SIP.

USEPA notes that approal of these revisions will meet the condition in USEPA's May 6, 1982, approval of Minnesota's TSP plan. It, therefore, is proposing to remove this condition, leaving Minnesota with a fully approved Part D TSP plan.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Authority: 42 U.S.C. 7401–7642.

Dated: January 8, 1987.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 87–14323 FIled 6–23–87; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 180

[OPP 300167; FRL–3221–4]

Definition and Interpretation Regarding Peaches

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that 40 CFR 180.1(h) be amended by adding and defining the crop term "peaches" to include both peaches and nectarines. This proposal, which would clarify and update the current definition of "peaches," was requested by the Interregional Research Project No. 4 (IR–4).

DATE: Comments, identified by the document control number [OPP 300167], must be received on or before July 24, 1987.

ADDRESS: By mail, submit written comments to:

Information Services Section, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail

Donald R. Stubbs, Emergency Response and Minor Use Section (TS–767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460

Office location and telephone number: Rm. 716H, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703)–557–1806.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted this request to EPA on behalf of Dr. Robert H. Kupelian, National Director, and the IR–4 Technical Committee.

IR–4 requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose that 40 CFR 180.1(h) be amended by adding the general category "peaches" to column A and by adding the corresponding specific raw agricultural commodities "peaches, nectarines" to column B.

IR–4 requested this amendment in order to clarify and update the relationship between the general category definition of "peaches" in column A and the specific raw agricultural commodities listed in column B.

IR–4 supports its request by pointing out that both peaches and nectarines are of the same species, *Prunus persica*, and are defined as such in the crop group "stone fruit" in 40 CFR 180.34(f)(9)(xii). Both crops are nearly identical botanically and culturally, and the growth habits and cultural practices for peaches and nectarines are very similar.

Nectarines have apparently originated from peaches by mutation. The main difference between peaches and nectarines is that peaches are covered by a soft down, while nectarines have a smooth plumlike peel. Data indicate that under identical treatment, peaches may have higher residue levels than nectarines, possibly because of the pubescent skin; but in no case would applications of pesticides to nectarines be expected to result in higher residues than those already established for peaches.

The Agency concurs with IR-4 on the proposed revision of 40 CFR 180.1(h) to add to the general category "peaches" to column A and the corresponding specific raw agricultural commodities "peaches, nectarines" to column B. This revision will expand the tolerances and exemptions established for residues of pesticide chemicals in or on the general category "peaches" to include nectarines. Based on the information considered by the Agency, it is concluded that the regulation established by amending 40 CFR Part 180 will protect the public health. Therefore, it is proposed that 40 CFR 180.1(h) be amended as set forth below.

Interested persons are invited to submit written comments on the proposed amendment. Comments must bear a notation indicating the document control number [OPP 300167]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 15, 1987.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.1(h) is amended by alphabetically inserting "peaches" in column A and adding the specific raw agricultural commodities "peaches, nectarines" in the corresponding column B, to read as follows:

§ 180.1 Definitions and interpretations.

* * * * *

(h) * * *

A	B
Peaches	Peaches, nectarines.

* * * * *

[FR Doc. 87-14228 Filed 6-23-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 264 and 265

[FRL-3222-5]

Hazardous Waste Management System; Containerized Hazardous Liquids Requirements

AGENCY: U.S. Environmental Protection Agency.

ACTION: Availability of supplemental information and request for comments.

SUMMARY: On December 24, 1986, the Agency published a proposal under authority of the Hazardous and Solid Waste Amendments of 1984 and the Resource Conservation and Recovery Act (RCRA) to regulate the disposal of containerized hazardous liquids in hazardous waste landfills. The proposal required that if containerized hazardous liquids or free liquids are mixed with an absorbent, the absorbent material must not be biodegradable and the waste/absorbent mixture must not release liquids when compressed under pressure experienced in a landfill. The Agency has evaluated most of the new information presented in comments in response to the December proposal and is today requesting comments on alternatives to specific parts of the December proposal. The specific alternatives include new criteria for defining biodegradable absorbents, new regulatory language for absorbent pillows, and new regulatory language that clarifies that absorbents are not the sole allowable form of treatment.

DATE: Comments must be submitted on or before July 24, 1987.

ADDRESS: Comments should be addressed to the Docket Clerk at the following address: EPA RCRA Docket (S-212) (WH-562), 401 M St., SW., Washington, DC 20460. One original and two copies should be sent and identified by regulatory docket reference number #F-87-CLLN FFFFF. The Docket is open from 9:30 a.m. to 3:30 p.m. Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials and should call Mia Zmud at (202) 475-9327 for appointments. The public may copy, at no cost, a maximum of 50 pages of material from any one regulatory docket. Additional copies are $0.20 per page.

FOR FURTHER INFORMATION CONTACT: For general information, call the RCRA Hotline, at (800) 424-9346 (toll-free) or (202) 382-3000. For technical information, contact Paul F. Cassidy, Office of Solid Waste (WH-565E), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202) 382-4654.

SUPPLEMENTARY INFORMATION: Section 3004(c)(2) of the Hazardous and Solid Waste Amendments (HSWA) requires that the Agency "promulgate final regulations which minimize the disposal of containerized liquid hazardous waste in landfills, and minimize the presence of free liquids in containerized hazardous waste to be disposed of in landfills." The statute also directs EPA to ensure that these regulations specifically prohibit the disposal in landfills of liquids that have been absorbed in materials that either biodegrade or release liquids when compressed, as might occur in a landfill.

This notice addresses those areas of the December proposal that received a significant comment, thereby prompting the Agency to further evaluate its proposed rule. Herein, the Agency discusses and seeks comments on the following areas of the December proposal that appear to need changes and further clarification:

(1) The criterion for defining biodegradable absorbents;

(2) The use of pozzolanic materials to treat containerized liquids;

(3) The use of absorbent pillows for spill control; and,

(4) The development of the Liquid Released Test (LRT).

First, in the December 24, 1986, proposed rule (51 FR 46824), the Agency classified a material as biodegradable if its total organic carbon was greater than 1 percent (%). A material with a total organic carbon content greater than 1% would be prohibited from being used as an absorbent material for containerized hazardous liquids. The Agency recommended that the modified Mebius procedure be used to calculate the total organic carbon content (TOC) of absorbent materials. Second, the Agency specifically requested comment on how the proposed TOC criterion for biodegradation should be applied to the treatment of organic polymers and pozzolanic materials.

Third, the proposal specifically requested comments on prepackaged accumulations of absorbents known as absorbent pillows. The Agency was interested in knowing whether the Liquids Release Test was the appropriate test method to determine if absorbent pillows released liquid when compressed. The Agency also requested information on how to take representative samples from an absorbent pillow for use in the LRT.

Finally, the proposal stated that the LRT (Method 9096) must be used to determine if a waste/biodegradable absorbent mixture released liquids when the mixture was compressed. The LRT was to be conducted for 30 minutes in an apparatus known as the Zero-Headspace Extractor (ZHE); a waste/non-biodegradable absorbent mixture failed the test (i.e., released liquids) if a wet spot was detected on the filter paper.

The December 1986 proposed rule for §§ 264.314 and 265.314 states that containers holding free liquids must not be placed in a landfill unless the containerized liquids or free liquids have been solidified by the use of a non-biodegradable absorbent material. This proposed language was read by commenters to be limiting and will be discussed below.

Discussion

With respect to the criterion for biodegradability, commenters objected to the proposed use of a value of 1% TOC to determine which absorbent materials were considered biodegradable. Commenters believed that the 1% limit would exclude highly effective polymer absorbents from being used to treat containerized hazardous liquids because of their high organic carbon content. Commenters also stated that some possolanic materials would be considered biodegradable because the recommended modified Mebius testing procedure measures elemental as well as organic carbon.

As a result of these comments and further analysis, the Agency now believes that a different criterion should be used to determine if an organic polymer is biodegradable. The Agency proposes to determine this alternative criterion by using tests which involve incubating the absorbent materials with prepared stock cultures of various microorganisms under ideal conditions for their growth. This incubation demonstrates the fungal resistance of polymers and is used in the American Society for the Testing of Materials laboratory test ASTM Method G21–70 (ASTM 1984a), which replaces ASTM Method D1924–53. A similar test that uses bacteria instead of fungi is ASTM Method G22–76 (ASTM 1984b). The non-biodegradable criterion for both of these tests would be a visible determination of no indication of culture growth.

The Nuclear Regulatory Commission requires the use of these ASTM tests on radioactive wastes to prove their resistance to biodegradation. Radioactive wastes must demonstrate structual stability that will enable the waste to maintain its physical dimensions and form under expected disposal conditions that include microbial activity. The Agency requests comments on this new method for defining a material as biodegradable, specifically focusing on the question of whether it should be used for all absorbents or only polymeric absorbents.

With respect to the use of pozzolanic materials, the regulatory language of the December proposal stated that containers holding free liquids must not be placed in a landfill unless the containerized liquids or free liquids have been solidified by the use of a non-biodegradable absorbent material. Comments interpreted this language to mean that the use of pozzolanic materials was not allowed. The Agency had intended the proposal language to be very specific but not limiting and, in response to comments received, is considering clarifying that treatment other than by the addition of an absorbent is also allowed. Such treatment may include the use of pozzolanic materials, which are used when a waste is to be solidified or stabilized. The Agency specifically requests comments on this clarification.

The new language may state that containers holding free liquids should not be placed in a landfill unless the containerized liquids or free liquids have been mixed with an absorbent or solidified. The use of the term "solidified" is intended to apply to a chemical reaction, chemical treatment, a stabilization process, or the use of pozzolanic materials. If a containerized liquid or free liquid is solidified by the landfill owner or operator, this material is considered to have been treated and a treatment permit is required. This requirement for a treatment permit is not new (see § 270.1(c)). An exemption (§ 270.1(c)(2)(vii)) exists for owners or operators adding an absorbent to a containerized liquid; however, this exemption does not apply if the owner or operator is "solidifying" a containerized liquid.

Concerning the use of the modified Mebius test for absorbents, most commenters argued that the Mebius test was not appropriate for pozzolanic materials or polymeric absorbents. Comments also stated that the Mebius test reports purse elemental carbon along with total organic carbon. No comments were received concerning the appropriateness of the Mebius test for clay or soil-like absorbents. In this regard, the agency would like commenters to address the following five questions: (1) Is the Mebius test appropriate for use with soil-like materials (e.g., clays, zeolites, etc.) that are used as absorbents? (2) Should the Agency instead rely on general engineering judgment, rather than a specific test, to determine whether soil-like materials are biodegradable? For example, biologically synthesized carbon-based absorbents such as wood fiver or corn cobs would be considered biodegradable, whereas absorbents derived from secondary minerals such as clay and zeolites, of which most common aggregate sorbents are composed, have silicon-aluminmum structures with no carbon present and would, therefore, be considered non-biogradeable. (3) If the Mebius test is to be used for soil-like absorbents, should the test be used in conjunction with general knowledge of the structure of the absorbent? Under this approach, if the Mebius test were to have a 3% TOC result but the manufacturer of the absorbent or the owner or operator of the landfill could demonstrate that most or all of the TOC was elemental carbon, then the absorbent would probably be considered non-biodegradable. (4) Are the ASTM tests previously discussed for microbial activity appropriate for all absorbents? (5) Should the Mebius test be replaced altogether by these ASTM tests?

In addition, the agency specifically requests comments on whether the 1% TOC level is appropriate as a definition of biodegradability when coupled with

general knowledge of the structure of the absorbent. Should the 1% TOC level be raised for clay absorbents, and if so, to what level? The agency is also interested in gaining information on absorbents that are described in trade literature as non-biodegradable; how is this claim determined and by what criteria?

In response to comments received on absorbent pillows, the Agency is considering creating a specific set of requirements to address the use and disposal of absorbent pillows. When the term "absorbent pillow" is used, the Agency is referring to absorbent booms, socks, wipes, and rags. Commenters noted that absorbent pillows are used for emergency spill responses, particularly by EPA (Superfund), Coast Guard, and others that respond to spills. If the disposal of such pillows were regulated as proposed in December, the use of these pillows to clean-up spills would be severely restricted, according to commenters.

Consequently, the Agency would like to regulate the disposal of absorbent pillows in a manner similar to lab packs (§§ 264.316 and 265.316. The new regulatory language would apply to containers containing *only* absorbent pillows. The new regulatory language would be a limited exemption for absorbent pillows used in spill responses because the Agency does not want to prevent the use of efficient spill control measures. Under the proposed exemption, generators with drums partially or totally filled with liquid would not be permitted to add absorbent pillows to solidify the liquids or to fill the drums. (The Agency believes that this would not be done often since the cost for this type of practice would be high.) This exemption would apply only absorbent pillows used to control spills or to wipe up or control leaks in a chemical plant.

The new regulatory langauge would require that the absorbent pillow material meet the specified non-biodegradability criterion. The regulatory langauge could also specify that the absorbent pillows be placed in an open-head DOT-specification metal shipping container of no more than 110 gallons. Incompatible wastes would not be allowed to be placed in the same container.

The final requirement would specify that when the *used* absorbent pollows are placed in the container, the bottom of the container should contain an extra quantity of *unused* non-biodegradable absorbent material. This extra quantity should be of a sufficient amount to absorb any release from the used absorbent pillows due to settlement during handling and disposal operations. The Agency is specifically interested in whether a numerical amount (e.g., the bottom quarter of the container) of non-biodegradable absorbent should be specified or whether a performance standard (i.e., able to absorb any release) would be sufficient. This new regulatory requirement would replace the one proposed in December 1986 that would have required a representative sample of an absorbent pillow to be taken and then subjected to the Liquids Release Test. Many commenters noted the difficulty of taking a representative sample from an absorbent pillow and then using the Liquid Release Test to measure its structural stability, prompting the Agency to consider this new approach. The Agency specifically requests comments on this new concept towards regulating absorbent pillows.

Finally, with respect to using the LTR, the Agency has evaluated most of the comments received on the LTR and the ZHE, which were generally unfavorable. Comments on the LRT addressed the specific issues of: time limit, cost, complexity of apparatus, and difficulty of clean-up. The Agency has begun additional research on the LRT to address these comments. The following topics are being investigated: the use of a specific sample height vs. specifying a weight or volume; the use of colored filter paper to make detection of a wet spot easier; and the use of a metal screen or teflon mesh to prevent clogging of the teflon disk. The time limit (previously proposed to be 30 minutes) is also being investigated, with the hope of reducing the length of time that the test must be run. A shorter time period will alleviate commenters' concerns over truckloads of containers backing up at the receiving dock of the disposal facility due to long test times. When the Agency develops a satisfactory test and methodology, it will undertake a collaborative study that will allow different pieces of apparatus to be tested. If the results for a certain apparatus are equivalent to the Agency design and methodology, this piece of apparatus will also be allowed to be used. The Agency is requesting comments on these specific issues concerning the LRT.

Herein, the Agency has highlighted those areas of the December 24, 1986, proposal that the Agency is considering changing in response to comments received. The comments received on today's notice will be reviewed and used to develop the Agency's final rule on containerized liquids.

Dated: June 16, 1987.

J.W. McGraw

Acting Assistant Administrator for Solid Waste and Emergency Response.

[FR Doc. 87-14324 Filed 6-23-87; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105-60

Freedom of Information

AGENCY: Office of Administration, GSA.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) has revised its regulations to implement the provisions of the Freedom of Information Reform Act of 1986.

DATE: Comments should be submitted in writing to the address shown below by July 24, 1987.

ADDRESS: General Services Administration (CAID), Room 3016, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Ms. Alexandra Mallus, GSA Freedom of Information Act (FOIA) Officer (202-535-7983).

SUPPLEMENTARY INFORMATION: On October 27, 1986, the President signed the Freedom of Information Reform Act of 1986 (Pub. L. 99-570). This legislation amended the FOIA to provide broader exemption protection for law enforcement information and modified the Act's fee and fee waiver provisions. GSA's regulations implementing the Freedom of Information Act are also being revised to conform with the Office of Management and Budget's final fee schedule guidelines published in the Federal Register on March 27, 1987, and fee waiver criteria established by the Department of Justice. The regulations are revised to:

a. Update organizational references and eliminate those sections which are the responsibility of the National Archives and Records Administration;

b. Add various definitions which are to be applied when setting the fees for records requested under the FOIA;

c. Establish four categories of requesters and specific levels of fees for each of these categories;

d. Allow GSA to charge a commercial-use requester for the time spent in reviewing records to determine whether they are exempt from disclosure;

e. Increase the fees for manual searches based on the class and average

grade of the employee(s) performing the search;

f. Provide that requesters subject to search fees, with the exception of commerical-use requesters, not be charged for the first 2 hours of search time;

g. Raise the dollar amount for which there will be no charge from $5 to $10 dollars and, with certain exceptions, the prepayment threshold from $10 to $250;

h. Eliminate search fees for educational and noncommercial scientific institutions;

i. Revise and clarify the general fee waiver standard;

j. Add several administrative actions which GSA may take to improve the assessment and collection of fees; and

k. Revise exemption 7 in accordance with the new statutory language concerning protection of law enforcement records and activities.

List of Subjects in 41 CFR Part 105–60

Freedom of information.

It is proposed to amend 41 CFR Part 105–60 as follows:

PART 105–60 PUBLIC AVAILABILITY OF AGENCY RECORDS AND INFORMATIONAL MATERIALS

1. The authority citation for 41 CFR Part 105–60 continues to read as follows:

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, 40 U.S.C. 486(c); and 5 U.S.C. 552 (Pub. L. 90–23, as amended by Pub. L. 93–502 and Pub. L. 99–570).

2. Part 105–60 is revised to read as follows:

Sec.

§ 105–60.000 Scope of part.

This part sets forth policies and procedures concerning the availability to the public of records held by the General Services Administration (GSA) with respect to:

(a) Agency organization, functions, decisionmaking channels, and rules and regulations of general applicability,

(b) Agency final opinions and orders, including policy statements and staff manuals,

(c) Operational and other appropriate agency records, and

(d) Agency proceedings.

This part also covers exemptions from disclosure of these records; procedures for the public to inspect and obtain copies of GSA records; and the service of a subpoena or other legal demand with respect to records.

Subpart 105–60.1—General Provisions

§ 105–60.101 Purpose.

Part 105–60 implements the provisions of the Freedom of Information Act, 5 U.S.C. 552 ("FOIA") (Pub. L. 90–23, which codified Pub. L. 89–487 and amended section 3 of the Administrative Procedure Act, formerly 5 U.S.C. 1002 (1964 ed.); Pub. L. 93–502, popularly known as the Freedom of Information Act Amendments of 1974; and amended by Pub. L. 99–570, the Freedom of Information Reform Act of 1986. This part prescribes procedures by which the public may inspect and obtain copies of GSA records under the FOIA.

§ 105.60–102 Application.

This part applies to all records and informational materials in the possession and control of GSA which come within the scope of 5 U.S.C. 552.

§ 1105–60.103 Policy.

§ 105–60.103–1 Availability of records.

GSA records are available to the greatest extent possible in keeping with the spirit and intent of the FOIA. GSA will furnish them promptly to any member of the public upon request addressed to the office designated in § 105–60.402–1 at fees specified in § 105–60.305–10. The person making the request need not have a particular interest in the subject matter, nor must that person provide justification for the request. The requirement of the FOIA that records be available to the public refers only to records in being at the date of the request and imposes no obligation on GSA to compile a record including development of a new computer program to respond to a request.

§ 105–60.103–2 Applying exemptions.

GSA may deny a request for a GSA record if it falls within an exemption under the FOIA as outlined in Subpart 105–60.5. Except when a record is classified or when disclosure would violate any Federal statute, the authority to withhold a record from disclosure is permissive rather than mandatory. GSA will not withhold a record unless there is a compelling reason to do so. In the absence of a compelling reason, GSA will disclose a record although it otherwise is subject to exemption.

§ 150–60.104 Records of other agencies.

If GSA receives a request to make available current records that are the primary responsibility of another agency, GSA will refer the request to the agency concerned for appropriate action. GSA will inform the requester that GSA has forwarded the request to the responsible agency.

§ 105–60.105 Inconsistent directives of GSA superseded.

Any policies and procedures in any GSA directive that are inconsistent with the policies and procedures set forth in this part are superseded to the extent of that inconsistency.

Subpart 105-60.2—Publication of General Agency Information and Rules in the Federal Register

§ 105-60.201 Published information and rules.

In accordance with 5 U.S.C. 552(a)(1), GSA publishes in the **Federal Register**, for the guidance of the public, the following general information concerning GSA:

(a) Description of the organization of the Central Office and regional offices and the established places at which, the employees from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(b) Statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(c) Rules of procedure, descriptions of forms available or the places where forms may be obtained, and instructions on the scope and contents of all papers, reports, or examinations;

(d) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by GSA; and

(e) Each amendment, revision, or repeal of the materials described in § 105-60.201.

§ 105-60.202 Published material available for sale to the public.

Substantive rules of general applicability adopted by GSA as authorized by law which this agency publishes in the **Federal Register** and which GSA makes available for sale to the public are: The General Services Administration Acquisition Regulations (48 CFR Ch. 5) and the Federal Acquisition Regulations (48 CFR Ch. 1); the Federal Property Management Regulations (41 CFR Ch. 101) and the Federal Information Resources Management Regulations (41 CFR Ch. 201). These regulations are available for sale by the Superintendent of Documents in (a) daily **Federal Register** form and (b) Code of Federal Regulations form, at prices established by the Government Printing Office.

Subpart 105-60.3—Availability of Opinions, Orders, Policies, Interpretations, Manuals, and Instructions

§ 105-60.301 General.

GSA makes available for public inspection and copying the materials described under 5 U.S.C. 552(a)(2), which are listed in § 105-60.302, and an Index of those materials as described in § 105-60.304, at convenient locations and times. Central Office materials are located in Washington, DC; some are also available at GSA regional offices. Each regional office has the materials for its region. All locations provide public reading rooms or selected areas for the inspection and copying of documents. Reasonable copying services are furnished at the fees specified in § 105-60.305.

§ 105-60.302 Available materials.

GSA materials available under Subpart 105-60.3 are as follows:

(a) Final opinions, including concurring and dissenting opinions and orders, made in the adjudication of cases.

(b) Those statements of policy and interpretations which have been adopted by GSA and are not published in the **Federal Register**.

(c) Administrative staff manuals and instructions to staff affecting a member of the public unless these materials are promptly published and copies offered for sale. (Any materials published and offered for sale will also be available in each reading room.)

§ 105-60.303 Rules for public inspection and copying.

(a) *Locations.* Reading rooms or selected areas containing the materials available for public inspection and copying, described in § 105-60.302, are located in the following places:

Central Office

(GSA Headquarters), Washington, DC. Telephone: 202-535-7788.

General Services Administration, 18th and F Streets NW, Library (Room 1033), Washington, DC 20405.

Region 1

Boston, Massachusetts (Comprising the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont). Telephone: 617-565-8100.

Business Service Center, General Services Administration, Boston Federal Office Building, 10 Causeway Street, Boston, MA 02222.

Region 2

New York, New York (Comprising the States of New Jersey, New York, the Commonwealth of Puerto Rico and the Virgin Islands). Telephone: 212-264-1234.

Business Service Center, General Services Administration, 26 Federal Plaza, New York, NY 10278.

National Capital Area

Washington, DC (Comprising the District of Columbia and the metropolitan area). Telephone: 202-472-1804.

Business Service Center, General Services Administration, Seventh and D Streets, SW, Room 1050, Washington, DC 20407.

Region 3

Philadelphia, Pennsylvania (Comprising the States of Delaware, Maryland, Pennsylvania, Virginia, and West Virginia). Telephone: 215-597-9613.

Business Service Center, General Services Administration, Ninth and Market Streets, Room 5142, Philadelphia, PA 19107.

Region 4

Atlanta, Georgia (Comprising the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee). Telephone: 404-331-3032.

Business Service Center, General Services Administration, Richard B. Russell Federal Building, U.S. Courthouse, 75 Spring Street, SW, Atlanta, GA 30303.

Region 5

Chicago, Illinois (Comprising the States of Illinois, Indiana, Michigan, Ohio, Minnesota, and Wisconsin). Telephone: 312-353-5383.

Business Service Center, General Services Administration, 230 South Dearborn Street, Chicago, IL 60604.

Region 6

Kansas City, Missouri (Comprising the States of Iowa, Kansas, Missouri, and Nebraska). Telephone: 816-926-7203.

Business Service Center, General Services Administration, 1500 East Bannister Road, Kansas City, MO 64131.

Region 7

Fort Worth, Texas (Comprising the States of Arkansas, Louisiana, New Mexico, Texas, and Oklahoma). Telephone: 817-334-3284.

Business Service Center, General Services Administration, 819 Taylor Street, Fort Worth, TX 76102.

Region 8

Denver, Colorado (Comprising the States of Colorado, North Dakota, South Dakota, Montana, Utah, and Wyoming). Telephone: 303-844-2435.

Business Service Center, General Services Administration, Federal Building, 1961 Stout Street, Room 426, Denver, CO 80294.

Region 9

San Francisco, California (Comprising the States of Hawaii, California, Nevada, and Arizona). Telephone: 415-974-9000.

Business Service Center, General Services Administration, 525 Market Street, San Francisco, CA 94105.

Region 10

Seattle, Washington (Comprising the States of Alaska, Idaho, Oregon, and Washington). Telephone: 206-442-5556.

Business Service Center, General Services Administration, GSA Center, Room 2413, Auburn, WA 98001.

(b) *Time.* The reading rooms or selected areas will be open to the public during the business hours of the GSA office where they are located.

(c) *Copying.* GSA will furnish reasonable copying services at fees specified in § 105-60.305 The fees will

be posted in each reading room or selected area. In suitable circumstances, a member of the public may receive authorization to copy materials personally under the procedures determined by the authorizing official (the GSA FOIA Officer in Central Office or the Regional FOIA Officer in the regional offices).

(d) *Reading room and selected area rules*—(1) *Age.* GSA will not give permission to inspect materials to a person under 16 years old unless accompanied by an adult who agrees to remain with the minor while the minor uses the materials.

(2) *Handling of materials.* The removal or mutilation of materials is forbidden by law and is punishable by fine or imprisonment or both. When requested by a reading room or selected area attendant, a person inspecting materials must present for examination any briefcase, handbag, notebook, package, envelope, book, or other article that could contain GSA informational materials.

(3) *Reproduction services.* The GSA Central Office Library or the Regional Business Service Centers will furnish "reasonable reproduction" services for available materials at the fees specified in § 105–60.305.

§ 105–60.304 Index.

GSA will maintain and make available for public inspection and copying current indexes arranged by subject matter providing identifying information for the public regarding any matter issued, adopted, or promulgated after July 4, 1967, and described in § 105–60.302.

§ 105–60.305 Fees.

§ 105–60.305–1 Definitions.

For the purpose of these regulations:

(a) A statute specifically providing for setting the level of fees for particular types of records (5 U.S.C. 552(a)(4)(A)(vi)) means any statute that specifically requires (as opposed to generally discussing) a Government agency to set the level of fees for particular types of records, in order to:

(1) Serve both the general public and private sector organizations by conveniently making available Government information;

(2) Ensure that groups and individuals pay the cost of publications and other services which are for their special use so that these costs are not borne by the general taxpaying public;

(3) Operate an information dissemination activity on a self-sustaining basis to the maximum extent possible; or

(4) Return revenue to the Treasury for defraying, wholly or in part, appropriated funds used to pay the cost of disseminating Government information.

(b) The term "direct costs" means those expenditures which GSA actually incurs in searching for and duplicating (and in the case of commercial requesters, reviewing) documents to respond to a FOIA request. Direct costs include, for example, the salary of the employee performing work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits), and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space, and heating or lighting the facility where the records are stored.

(c) The term "search" includes all time spent looking for material that is responsive to a request, including line-by-line identification of material within documents. Searches will be performed in the most efficient and least expensive manner so as to minimize costs for both the agency and the requester. Line-by-line searches will not be undertaken when it would be more efficient to duplicate the entire document. Such activity will be distinguished from "review" of material in determining whether the material is exempt from disclosure (see subparagraph e, below). Searches may be done manually or by computer using existing programming.

(d) The term "duplication" refers to the process of making a copy of a document in response to a FOIA request. Such copies can take the form of paper, microform, audiovisual materials, or machine-readable documentation. GSA will provide a copy of the material in a form that is usable by the requester unless it is administratively burdensome to do so.

(e) The term "review" refers to the process of examining documents located in response to a request that is for commercial use (see subparagraph f, below) to determine if any portion of that document is permitted to be withheld and processing any documents for disclosure. See § 105–60.305–7.

(f) The term "commercial-use request" refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or person on whose behalf the request is made. In determining whether a requester properly belongs in this category, GSA will look first at how the requester will use the documents.

(g) The term "educational institution" refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(h) The term "noncommercial scientific institution" refers to an institution that is not operated on a "commercial" basis as that term is referenced in f, above, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(i) The term "representative of the news media" refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. In the case of "freelance" journalists, they may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it.

§ 105–60.305–2 Scope of section.

This section sets forth policies and procedures to be followed in the assessment and collection of fees from a requester for the search, review, and reproduction of GSA records.

§ 105–60.305–3 Record material available without charge.

Each GSA reading room or selected area provides a rack displaying GSA records available to the public in that region. Certain material related to bids (excluding construction plans and specifications) and any material displayed on the rack are available without charge upon request.

§ 105–60.305–4 Copy of GSA records available at a fee.

GSA will make a record not subject to exemption available at a time and place mutually agreed upon by GSA and the requester. GSA will agree either to—

(a) Show the originals to the requester,

(b) Make one copy available at a fee, or

(c) A combination of these alternatives.

In the case of voluminous materials, GSA will make copies as quickly as possible. GSA may make a reasonable number of additional copies at a fee when commercial reproduction services are not available to the requester.

§ 105-60.305-5 Waiver of fee.

(a) Any request for waiver or reduction of a fee should be included in the initial letter requesting access to GSA records under § 105-60.402-1. The waiver request should explain how waiver of the fees would contribute significantly to public understanding of the operations or activities of the Government and would not be primarily in the commercial interest of the requester. In responding to a request GSA will consider the following factors:

(1) Whether the subject of the requested records concerns "the operations or activities of the Government." The subject matter of the requested records must specifically concern identifiable operations or activities of the Federal Government—with a connection between them that is direct and clear, not remote or attenuated.

(2) Whether the disclosure is "likely to contribute" to an understanding of Government operations or activities. In this connection, GSA should consider whether the requested information is already in the public domain, either in a duplicative or a substantially identical form. If it is, then disclosure of the information would not be likely to contribute to an understanding of Government operations or activities, as nothing new would be added to the public record.

(3) Whether disclosure of the requested information will contribute to "public understanding." The focus here must be on the contribution to public understanding, rather than personal benefit to be derived by the requester. For purposes of this analysis, the identity and qualifications of the requester should be considered, to determine whether the requester is in a position to contribute to public understanding through the requested disclosure.

(4) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and if so

(5) Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."

(b) If the initial request provides insufficient information for the agency to evaluate the request, GSA may ask the requester to furnish additional information. GSA will not commence processing a request until the fee waiver issue has been resolved.

§ 105-60.305-6 Searches.

(a) GSA may charge for the time spent in the following activities in determining "search time" subject to applicable fees as provided in § 105-60.305-10:

(1) Time spent in trying to locate GSA records which come within the scope of the request;

(2) Time spent in either transporting a necessary agency searcher to a place of record storage, or in transporting records to the locations of a necessary agency searcher; and

(3) Direct costs involving the use of computer time to locate and extract requested records.

(b) GSA will not charge for the time spent in monitoring a requester's inspection of disclosed agency records.

§ 105-60.305-7 Reviews.

(a) GSA may charge for the time spent in the following activities in determining "review time" subject to applicable fees as provided in § 105-60.305-10:

(1) Time spent in examining a requested record to determine whether the record is permitted to be withheld in whole or in part; and

(2) Time spent in deleting exempt matter being withheld from records otherwise made available.

(b) GSA will not charge for the time spent in resolving issues of law or policy regarding the application of exemptions.

(c) GSA may not charge for review at the administrative appeal level of an exemption already applied. However, records or portions of records withheld in full under an exemption which is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. The costs for such a subsequent review would be properly assessable.

§ 105-60.305-8 Prepayment of fees over $250.

GSA will require prepayment of fees for search, review, and reproduction which are likely to exceed $250. When the anticipated total fee exceeds $250, the requester will receive notice to prepay and will be advised if prepayment is not received within 30 workdays from the date of our letter, he or she may incur additional charges for time spent to search for the records a second time. GSA will not start processing a request until prepayment is received.

§ 105-60.305-9 Form of payment.

Requesters should pay fees by check or money order made out to the General Services Administration and addressed to the official named by GSA in its correspondence.

§ 105-60.305-10 Fee schedule.

(a) When GSA is aware that documents responsive to a request are maintained for distribution by an agency operating a statutory fee based program, GSA will inform the requester of the procedures for obtaining records from those sources.

(b) In computing applicable fees, GSA will consider only the following costs in providing the requested records:

(1) *Review and search fees.*

Manual searches by clerical staff.	$9 per hour or fraction of an hour.
Manual searches and reviews by professional staff in cases in which clerical staff would be unable to locate the requested records.	$18 per hour or fraction of an hour.
Computer searches	Direct cost to GSA.
Transportation or special handling of records.	Do.

(2) *Reproduction fees.*

Pages no larger than 8½ by 14 inches, when reproduced by routine electrostatic copying.	$0.10 per page.
Pages over 8½ by 14 inches.	Direct cost of reproduction to GSA.
Pages requiring reduction, enlargement, or other special services.	Do.
Reproduction by other than routine electrostatic copying.	Do.

(c) *Categories of requesters.* There are four categories of requesters: commerical-use, educational and noncommercial scientific institutions; news media; and all other. The fees listed above apply with the following exceptions:

(1) No fees under $10 will be billed by GSA because the cost of collection would be greater than the fee.

(2) Educational and noncommercial scientific institutions and the news media will be charged for the cost of

reproduction alone. These requesters are entitled to the first 100 pages (paper copies) of duplication at no cost. The following are examples of how these fees are calculated.

(i) A request that results in 150 pages of material. No fee would be assessed for duplication of 150 pages. The reason is that these requesters are entitled to the first 100 pages at no charge. The charge for the remaining 50 pages would be $5. This amount would not be billed under the preceding section.

(ii) A request that results in 250 pages of material. The requester in this case would be charged $15.

(3) Noncommercial requesters who are not included under (2), above, will be entitled to the first 100 pages (paper copies) of duplication at no cost and 2 hours of search without charge. The term "search time" in this context has as its basis, manual search. To apply this term to searches made by computer, GSA will determine the hourly cost of operating the central processing unit and the operator's hourly salary plus 16 percent. When the cost of search (including the operator time and the cost of operating the computer to process a request) equals the equivalent dollar amount of two hours of the salary of the person performing the search, i.e., the operator, GSA will begin assessing charges for computer search.

(4) GSA will charge commercial-use requesters fees which recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. Commercial-use requesters are not entitled to 2 hours of free search time.

(d) *Determining category of requester.* GSA may ask the requester to provide additional information at any time to determine what fee category he or she falls under. This applies to all requesters.

§ 105-60.305-11 Fees for authenticated and attested copies.

The fees set forth in § 105-60.305-10 apply to requests for authenticated and attested copies of GSA records.

§ 105-60.305-12 Administrative actions to improve assessment and collection of fees.

(a) *Charging interest.* GSA may charge requesters who fail to pay fees interest on the amount billed starting on the 31st day following the day on which the billing was sent. Interest will be at the rate prescribed in 31 U.S.C. 3717.

(b) *Effect of the Debt Collection Act of 1982.* GSA will take any action authorized by the Debt Collection Act of 1982 (Pub. L. 97-365), including disclosure to consumer reporting agencies, use of collection agencies, and assessment of penalties and administrative costs, where appropriate, to encourage repayment.

(c) *Charges for unsuccessful search.* The agency may assess charges for time spent searching for the records even if the agency fails to locate the records or if the records located are exempt from disclosure.

(d) *Notifying requester of charges over $25.* If charges are likely to exceed $25, GSA will notify the requester and obtain, in writing, assurance of the requester's willingness to pay the estimated fee. The requester shall also be offered an opportunity to modify his or her request to reduce the fee. GSA will not start processing the request until assurance of payment is received.

(e) *Aggregating requests.* When the agency reasonably believes that a requester, or group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, GSA will combine any such requests and charge accordingly, including fees for previous requests where charges were not assessed. GSA will presume that multiple requests of this type made within a 30-day period are made to avoid fees.

(f) *Advance payments.* (1) See § 105-60.305-8 regarding prepayment of fees for FOIA requests.

(2) Where a requester has previously failed to pay a fee charged in a timely fashion (i.e., within 30 days of the date of the billing), GSA will require the requester to pay the full amount owed plus any applicable interest as provided above, or demonstrate that he or she has, in fact, paid the fee, and to make an advance payment of the full amount of the estimated fee before the agency begins to process a new request or a pending request from that requester.

(3) If GSA acts under subparagraphs (1) and (2), above, the administrative time limits in subsection (a)(6) of the FOIA (i.e., 10 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denials plus permissible time extensions) will begin only after it has received the fee payments described above.

Subpart 105-60.4—Described Records

§ 105-60.401 General.

(a) Except for records made available in accordance with Subparts 105-60.2 and 105-60.3, GSA will make records available to a requester promptly when the request reasonably describes the records unless GSA invokes an exemption in accordance with Subpart 105-60.5. Although the burden of reasonable description of the records rests with the requester, GSA will assist in identification.

(b) Upon receipt of a request that does not reasonably describe the records requested, GSA may contact the requester to seek a more specific description. The 10-workday time limit set forth in § 105-60.402-2 will not start until the official identified in § 105-60.402-1 receives a request reasonably describing the records.

§ 105.60-402 Procedures for making records available.

This section sets forth initial procedures for making records available when they are requested.

§ 105-60.402-1 Submission of requests.

For records located in the GSA Central Office, the requester should submit a request in writing to the GSA FOIA Officer, General Services Administration (CAID), Washington, DC 20405. For records located in the GSA regional offices, the requester should submit a request to the FOIA Officer in the Business Service Center for the relevant region, at the address listed in § 105-60.303(a). Requests should include the words "Freedom of Information Act Request" prominently marked on both the face of the request letter and the envelope. The 10-workday time limit for agency decisions set forth in § 105-60.402-2 begins with receipt of a request in the office of the appropriate official identified in this section. Failure to include the words "Freedom of Information Act Request" or to submit a request to the official identified in this section will result in processing delays. A requester who has questions concerning an FOIA request may consult the GSA FOIA Officer, General Services Administration (CAID), 18th and F Streets, NW., Washington, DC 20405, (202) 535-7983.

§ 105-60.402-2 Response to initial requests.

GSA will respond to an initial FOIA request within 10 workdays (that is, excluding Saturdays, Sundays, and legal public holidays) after receipt of a request by the office of the appropriate official specified in § 105-60.402-1. This letter should state the agency's decision with respect to disclosure or nondisclosure of the requested records. If the records are not provided with the initial letter, the records will be sent as soon as possible thereafter. In unusual circumstances, GSA will inform the requester of the agency's need to take an extension of time.

§ 105-60.403 Appeal within GSA.

(a) A requester who receives a denial in whole or in part of a request may appeal that decision within GSA. The requester shall direct the appeal to the GSA FOIA Officer, General Services Administration (CAID), Washington, DC 20405, regardless of whether the denial being appealed was made in the Central Office or in a regional office.

(b) The GSA FOIA Officer must receive an appeal no later than 30 calendar days after receipt by the requester of the initial denial of access.

(c) The requester must appeal in writing and include a brief statement of the reasons he or she thinks GSA should release the records and enclose copies of the initial request and denial. The appeal letter should include the words "Freedom of Information Act Appeal" on both the face of the appeal letter and on the envelope. Failure to follow these procedures will delay processing of the appeal. GSA has 20 workdays after receipt of an appeal to make a determination with respect to the appeal. The 20-workday time limit shall not begin until the GSA FOIA Officer receives the appeal.

(d) A requester who has received a denial of an appeal may seek judicial review of GSA's decision in the Federal District Court in the district in which the requester resides or has a principal place of business, or where the records are situated, or in the Federal District Court in the District of Columbia.

§ 105-60.404 Extension of time limits.

(a) In unusual circumstances, the GSA FOIA Officer or the regional FOIA Officer may extend the time limits prescribed in §§ 105-60.402 and 105-60.403. For purposes of this section, the term "unusual circumstances" means:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request;

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein; or

(4) The need to consult with the submitter of the requested information.

(b) If necessary, more than one extension of time may be taken. However, the total extension of time shall not exceed 10 workdays with respect to a particular request. The extension may be divided between the initial and appeal stages or within a single stage. GSA will provide a written notice to the requester of any extension of time limits.

Subpart 105-60.5—Exemptions

§ 105-60.501 Categories of records exempt from disclosure under the FOIA.

(a) 5 U.S.C. 552(b) provides that the requirements of the FOIA do not apply to matters that are:

(1) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and that are, in fact, properly classified under the Executive order;

(2) Related solely to the internal personnel rules and practices of an agency;

(3) Specifically exempted from disclosure by statute, other than the Privacy Act, provided that the statute—

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person that are privileged or confidential;

(5) Interagency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual.

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; and

(9) Geological and geophysical information and data, including maps, concerning wells.

(b) GSA will provide any reasonably segregable portion of a record to a requester after deletion of the portions that are exempt under this section.

(c) GSA will invoke no exemption under this section if the requested records would be available under the Privacy Act of 1974 and implementing regulations, Part 105-64, or if disclosure would cause no demonstrable harm to any public or private interest.

(d) Whenever a request is made which involves access to records described in § 105-60.501(a)(7)(i) and

(1) The investigation or proceeding involves a possible violation of criminal law, and

(2) There is reason to believe that (i) the subject of the investigation or proceeding is not aware of its pendency, and (ii) disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

(e) Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed.

(f) Whenever a request is made which involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence, or international terrorism, and the existence of the records is classified information as provided in paragraph (a)(1), above, the Bureau may, as long as the existence of

the records remains classified information, treat the records as not subject to the requirements of this section.

Subpart 105-60.6—Subpoenas or Other Legal Demands for Records

§ 150-60.601 Service of subpoena or other legal demand.

(a) A subpoena duces tecum or other legal demand for the production of records held by GSA should be addressed to the General Counsel, General Services Administration (L), Washington, DC 20405, with respect to GSA Central office records; to the appropriate Regional Counsel, for records in GSA regional offices; or to the Administrator of General Services.

(b) The Administrator, the General Counsel, Deputy General Counsels, Associate General Counsels, Inspector General, and, with respect to records in a GSA regional office, the Regional Administrator and Regional Counsel are the only GSA employees authorized to accept service of a subpoena duces tecum or other legal demand on behalf of GSA.

Dated: May 29, 1987.

Paul T. Weiss,

Associate Administrator for Administration.

[FR Doc. 87-14283 Filed 6-23-87; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-186, RM-5671]

Radio Broadcasting Services; South Thomaston, ME

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Kollen Dodge proposing the allocation of FM Channel 248A to South Thomaston, Maine, as that community's first FM broadcast service. Concurrence of the Canadian government is required for the allocation of Channel 248A at South Thomaston.

DATES: Comments must be filed on or before August 7, 1987, and reply comments on or before August 24, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant; as follows: Brian Dodge, Harvest Broadcasting Services, Box 105 FM, Hinsdale, New Hampshire 03451 (consultant to the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-186, adopted May 5, 1987, and released June 17, 1987. The full text of the Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* oontacts are prohibited in Commission proceedings, such as this one, which involve channel allotments See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-14286 Filed 6-23-87; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 347 (Sub-No. 2)]

Rail Carriers; Rate Guidelines in Non-Coal Proceedings

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file comments to notice of proposed policy.

SUMMARY: By a decision served April 8, 1987, the Commission proposed guidelines for evaluating rate reasonableness in non-coal proceedings. Notice was published on April 8, 1987 in the **Federal Register** at 52 FR 11295 and the *I.C.C. Register*. May 25, 1987 was specified as the due date for comments. An extension for filing comments was granted on May 22, setting June 25, 1987 as the due date. This decision further extends the filing date for comments to July 24, 1987.

DATES: Comments are due July 24, 1987.

ADDRESSES: Send an original and 15 copies of comments to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Ronald S. Young, (202) 275-7565, or Richard H. Klem, (202) 275-1915.

Dated: June 17, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary.

[FR Doc. 87-14341 Filed 6-23-87; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 52, No. 121
Wednesday, June 24, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

June 19, 1987.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requests; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

- Agricultural Stabliziation and Conservation Service

Application for Payment (National Wool Act)
CCC–1155
Annually
Farms; 125,000 responses; 31,250 hours; not applicable under 3504(h)
Harry D. Millner (202) 475–3605

- Agricultural Stabilization and Conservation Service

7 CFR Part 1475, Emergency Feed Program
ASCS–645, ASCS–648
On occasion
Farms; 51,000 responses; 37,667 hours; not applicable under 3504(h)
Harry Millner (202) 475–3605

- Economic Research Service

Cotton Ginning Charges and Related Information
Annually
Businesses or other for-profit; 1,620 responses; 270 hours; not applicable under 3504(h)
Edward H. Glade, Jr. (202) 786–1840

- Food and Nutrition Service

WIC Program Regulations—Reporting and Recordkeeping Burden
Recordkeeping; On occasion; Monthly; Semi-annually; Annually
Individuals or households; State or local governments; Businesses or other for-profit; Federal agencies or employees; non-profit institutions; Small businesses or organizations; 7,022,951 responses; 831,270 hours; not applicable under 3504(h)
Idalia McKelvey (703) 756–3730

- Forest Service

Visitor Permit and Registration Card
FS 2300–30 and 2300–32
On occasion
Individuals or households; 250,000 responses; 12,500 hours; not applicable under 3504(h)
Ed Bloedel (202) 447–2311

- Rural Electrification Administration

Field Trials
REA–399b
On occasion
Small businesses or organizations; 45 responses; 203 hours; not applicable under 3504(h)
George J. Bagnall (202) 382–8698

Jane A. Benoit,
Departmental Clearance Officer.

[FR Doc. 87–14356 Filed 6–23–87; 8:45 am]
BILLING CODE 3410–01–M

Soil Conservation Service

Environmental Impact Statement; Spring Creek Watershed, Colorado

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an Environmental Impact Statement is not being prepared for the Spring Creek Watershed, Weld County, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon G. Boone, State Conservationist, Soil Conservation Service, 2490 West 26th Avenue, Denver, Colorado 80211, telephone (303) 964–0292.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the measure will not cause significant local, regional or national impacts on the environment. As a result of these findings, Mr. Sheldon G. Boone, State Conservationist, has determined that the preparation and review of an Environmental Impact Statement are not needed for this project.

The project concerns a plan for watershed protection. The planned works of improvement include installing the land treatment practices of conservation tillage systems, critical area planting (sod waterways), and establishing permanent vegetation on non-irrigational cropland.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single-copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Sheldon G. Boone.

No administrative action on implementation of the proposal will be

taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Dated: June 16, 1987.

Sheldon G. Boone,

State Conservationist.

[FR Doc. 87-14311 Filed 6-23-87; 8:45 am]

BILLING CODE 3410-16-M

ARCTIC RESEARCH COMMISSION

Meeting in Arctic Alaska and Canada

Public meetings are scheduled for the Commission on July 6, from 9:00 a.m. to 12:00 p.m., in the Borough Assembly Offices, Kotzebue, Northwest Arctic Borough, and on July 9, starting at 6:30 p.m., in Kaktovik, North Slope Borough, Alaska.

Matters to be considered at these public meetings include: 1. Opening Remarks by James H. Zumberge, 2. Status of Implementation of Arctic Research and Policy Act, 3. State of Alaska Activities, 4. Logistic requirements to support Arctic research, 5. Possible impacts of onshore and offshore developments on the region, and 6. Public comment on Arctic research policy.

The Commission will meet in Executive Session on July 5, starting at 6:30 p.m. and on July 6 at 3:00 p.m. in the Nul-luk-vik Hotel, Kotzebue, and on July 9, starting at 2:00 p.m. at the Waldo Arms, Kaktovik. Matters to be discussed in Executive Session include: 1. Commission Budget for FY-87, 88 and 89, 2. Membership of the Commission, 3. Future activities of the Commission and, 4. Nominations for Group of Advisors.

In addition to Commission Public Meetings and Executive Sessions, the Commission will also conduct various site visits. On July 7, the Commission will also conduct various site visits. On July 7, the Commission will conduct a site visit to the Red Dog Mine-Northwest Arctic Borough. On July 8, the Commission will conduct site visits to the Endicott oilfield in Prudhoe Bay, and the Arctic National Wildlife Refuge. On July 9, the Commission will tour the Dewline Site, Kaktovik and Barter Island. On July 10, the Commission will visit the Polar Continental Shelf research base, Tuktoyatuk, Northwest Territories, Canada, and the Department of Indian and Northern Affairs Laboratory at Inuvik, Northwest Territories.

Contact person for more information: W. Timothy Hushen, Executive Director, Arctic Research Commission (213) 743-0970.

W. Timothy Hushen,

Executive Director, Arctic Research Commission.

[FR Doc. 87-14360 Filed 6-23-87; 8:45 am]

BILLING CODE 7555-01-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Technical Information Service (NTIS).

Title: NTIS Customer Survey.

Form number: Agency—NA; OMB—NA.

Type of request: New collection.

Burden: 10,000 respondents; 5,000 reporting hours.

Needs and uses: The purpose of this survey is to establish a demographic and psychographic profile and end-use analysis of past, present and prospective customers of federally-sponsored scientific, technical and engineering information. It will seek to determine whether technical information available from NTIS is useful to the individual's needs.

Affected public: State or local governments, businesses or other for profit institutions, Federal agencies or employees, non-profit institutions, small businesses or organizations.

Frequency: One time.

Respondent's obligation: Voluntary.

OMB desk officer: Sherry Fox, 395-3785.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Sherry Fox, OMB Desk Officer, Room 3228 New Executive Office Building, Washington, DC 20503.

Dated: June 16, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87-14289 Filed 6-23-87; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

[A-583-008]

Certain Circular Welded Carbon Steel Pipes and Tubes From Taiwan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration; Import Administration; Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by the petitioner and respondents, the Department of Commerce has conducted an administrative review of the antidumping duty order on certain circular welded carbon steel pipes and tubes from Taiwan. The review covers four manufacturers/exporters of this merchandise to the United States and the period May 1, 1985 through April 30, 1986. The review indicates that dumping margins are *de minimis* or do not exist.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 24, 1987.

FOR FURTHER INFORMATION CONTACT: Deborah Grossman or Maureen Flannery, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3601.

SUPPLEMENTARY INFORMATION:

Background

On May 7, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 19369) the antidumping duty order on certain circular welded carbon steel pipes and tubes from Taiwan. The petitioner and respondents requested in accordance with 353.53(a) of the Commerce Regulations that we conduct an administrative review for the period May 1, 1985 through April 30, 1986. We published a notice of initiation of the antidumping duty administrative review on June 23, 1986 (51 FR 22843). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930.

Scope of the Review

The imports covered by the review are shipments of certain circular welded

carbon steel pipes and tubes. The Department defines such merchandise as welded carbon steel pipes and tubes of circular cross section, with walls not thinner than 0.065 inches, and 0.375 inches or more but not over 4.5 inches in outside diameter, which are currently classifiable under items 610.3231, 610.3234, 610.3241, 610.3242, 610.3243 and 610.3252 of the Tariff Schedules of the United States Annotated ("TSUSA").

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act of 1930 ("the Tariff Act"). Purchase price was based on the packed delivered price to unrelated purchasers in the United States. We made adjustments, where applicable, for foreign inland freight, ocean freight, insurance, brokerage and handling charges, stamp taxes, warehouse charges, export charges and duty drawback. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value for Far East Machinery Co., Ltd., Kao Hsing Chang Iron and Steel Corp., and Yieh Hsing Enterprise Co., Ltd., the Department used the home market price, as defined in section 773 of the Tariff Act, since there were sufficient sales of such or similar merchandise in the home market. We used constructed value, also as defined in section 773 of the Tariff Act, as the basis for calculating foreign market value for An Mau Steel Co., Ltd., since there were no sales of such or similar merchandise in the home market or to third countries.

Home market price was based on the packed delivered price to unrelated customers in the home market. Where applicable, we made adjustments for inland freight, brokerage and handling charges, commissions to unrelated parties, U.S. indirect selling expenses to offset home market commissions, differences in credit expenses, bank charges, business, education, and stamp taxes, cash discounts, and differences in the physical characteristics of the merchandise. We disallowed a claimed adjustment for bad debt for FEMCO because this claim was insufficiently substantiated and because furthermore, we would consider bad debt to be an indirect expense. No other adjustments were claimed or allowed.

We calculated constructed value as the sum of materials and fabrication costs, general expenses, profit, and the cost of packing. Since An Mau's actual general expenses were less than ten percent of the sum of materials and fabrication costs, we used the ten percent statutory minimum as provided in section 773 of the Tariff Act. We examined the industry profit rate since An Mau does not sell in the home market or to third countries. Since that profit rate was less than eight percent of the sum of materials costs, fabrication costs, and general expenses, we used the eight percent statutory minimum as provided in section 773 of the Tariff Act.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
An Mau Steel Co., Ltd.	05/01/85 - 04/30/86	0.03
Far East Machinery Co., Ltd.	05/01/85 - 04/30/86	0
Kao Hsing Chang Iron and Steel Corp.	05/01/85 - 04/30/86	0
Yieh Hsing Enterprise Co., Ltd.	05/01/85 - 04/30/86	0

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice, may request disclosure within 5 days of the date of publication, and may request a hearing within 8 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided by § 353.48(b) of the Commerce Regulations, since there was either no margin, or a *de minimis* margin, for the reviewed manufacturers/exporters, the Department shall not require a cash deposit of estimated antidumping duties for these manufacturers/exporters.

For any future entries of this merchandise from a new exporter, not covered in this or prior administrative reviews, whose first shipments occurred after April 30, 1986 and who is unrelated to any reviewed firm, or any previously reviewed firm, no cash deposit shall be required. These waivers of the deposit requirement are effective for all shipments of certain Taiwanese circular welded carbon steel pipes and tubes entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Dated: June 18, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 87-14349 Filed 6-23-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-606]

Postponement of Final Antidumping Duty Determination and Rescheduling of Public Hearing; Certain Forged Steel Crankshafts From Japan

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: The final antidumping duty determination involving certain forged steel crankshafts from Japan is being postponed until not later than September 25, 1987, and the public hearing is being rescheduled for July 21, 1987.

EFFECTIVE DATE: June 24, 1987.

FOR FURTHER INFORMATION CONTACT: Rick Herring, Ellie Shea, or Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-0187, 377-0184, or 377-0161.

SUPPLEMENTARY INFORMATION: On May 7, 1987, we made a preliminary determination that certain forged steel crankshafts from Japan are not being, nor are likely to be, sold in the United States at less than fair value (52 FR 17999, May 13, 1987). The notice stated that we would issue our final determination not later than July 21, 1987. On May 13, 1987, petitioner requested that the Department extend the period for the final determination until not later than 135 days after the publication of the preliminary determination in accordance with section 735(a)(2)(B) of the Tariff Act of 1930, as amended (the Act). Accordingly, the date of the final

determination in this case is postponed until not later than September 25, 1987. The U.S. International Trade Commission is being advised of this postponement in accordance with section 735(d) of the Act.

Scope of Investigation

The scope remains the same as described in our preliminary determination.

Public Comment

The public hearing, which had been previously scheduled for June 23, 1987, will be held at 10:00 a.m. on July 21, 1987, in Room 1414, at the U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230. Prehearing briefs in at least ten copies must be submitted to the Deputy Assistant Secretary by July 14, 1987. All written views should be filed in accordance with 19 CFR 353.46, within seven days after the hearing transcript is available, at the above address in at last ten copies.

This notice is published pursuant to section 735(d) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

June 19, 1987.

[FR Doc. 87-14346 Filed 6-23-87; 8:45 a.m.]

BILLING CODE 3510-DS-M

[A-412-502]

Postponement of Final Antidumping Duty Determination and Rescheduling of Public Hearing; Certain Forged Steel Crankshafts From the United Kingdom

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: The final antidumping duty determination involving certain forged steel crankshafts from the United Kingdom is being postponed until August 26, 1987, and the public hearing is being rescheduled for July 16, 1987.

EFFECTIVE DATE: June 24, 1987.

FOR FURTHER INFORMATION CONTACT: Loc Nguyen, Lori Cooper, or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-0167, 377-8320 or 377-2438.

SUPPLEMENTARY INFORMATION: On May 7, 1987, we made a preliminary determination that certain forged steel crankshafts from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value (52 FR 18000, May 13, 1987). The notice stated that we would issue our final determination not later than July 21, 1987. On June 10, 1987, respondent requested that the Department extend the period for the final determination until the 105th day after the publication of the preliminary determination in accordance with section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act). Accordingly, the date of the final determination in this case is postponed until August 26, 1987. The U.S. International Trade Commission is being advised of this postponement in accordance with section 735(d) of the Act.

Scope of Investigation

The scope remains the same as described in our preliminary determination.

Public Comment

The public hearing, which had been previously scheduled for June 23, 1987, will be held at 10:00 a.m. on July 16, 1987, in Room 1413, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Prehearing briefs in at least ten copies must be submitted to the Deputy Assistant Secretary by July 9, 1987. All written views should be filed in accordance with 19 CFR 353.46, within seven days after the hearing transcript is available, at the above address in at least ten copies.

This notice is published pursuant to section 735(d) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

June 19, 1987.

[FR Doc. 87-14347 Filed 6-23-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-475-031]

Large Power Transformers From Italy; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on large power transformers from Italy. The review indicates the existence of dumping margins for two firms.

EFFECTIVE DATE: June 24, 1987.

FOR FURTHER INFORMATION CONTACT: Laurie A. Lucksinger or David P. Mueller, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-1130/2923.

SUPPLEMENTARY INFORMATION:

Background

On August 6, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 31313) the final results of its last administrative review of the antidumping finding on large power transformers from Italy (37 FR 11772, June 14, 1972). The petitioner, Westinghouse Electric Corporation, and two manufacturers, Ansaldo Componenti ("Ansaldo") and Officine Elettromeccaniche Lombarde ("O.E.L."), requested in accordance with § 353.53a(a) of the Commerce Regulations that we conduct an administrative review. We published notices of initiation of the antidumping duty administrative review on July 9, 1986 (51 FR 24884) and July 17, 1986 (51 FR 25923). The Department has now conducted these administrative reviews in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. Congress is considering legislation to convert the United States to this Harmonized System ("HS") by January 1, 1988. In view of this, we will be providing both the appropriate *Tariff Schedule of the United States Annotated* ("TSUSA") item numbers with our product descriptions on a test basis, pending Congressional approval. As with the TSUSA, the HS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

We are requesting petitioners to include the appropriate HS item number(s) as well as the TSUSA item number(s) in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultation at the Central Records Unit, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Additionally, all Customs offices have reference copies, and petitioners may contact the Import Specialist at their local Customs office to consult the schedule.

Imports covered by the review are shipments of large power transformers ("transformers"); that is, all types of transformers rated 10,000 KVA (kilovolt-amperes) or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electric power. The term "transformers" includes, but is not limited to, shunt reactors, autotransformers, rectifier transformers, and power rectifier transformers. Not included are combination rectifier-transformer units, commonly known as rectiformers, if the entire integrated assembly is imported in the same shipment and entered on the same entry and the assembly has been ordered and invoiced as a unit, without a separate price for the transformer portion of the assembly. Transformers covered by this finding are currently classifiable in TSUSA items 682.0755, 682.0765, and 682.0775. These products are currently classifiable under HS item numbers HS 8504.22.00, 8504.23.00, 8504.34.00, 8504.40.00, 8504.50.00 and 8505.50.00.

The review covers three exporters of Italian large power transformers to the United States: Industrie Elettriche di Legnano ("Legnano") — May 1, 1974 through May 31, 1986; Ansaldo — June 1, 1983 through May 31, 1985; and O.E.L. — June 1, 1985 through May 31, 1986.

United States Price

In calculating United States price the Department used purchase price as defined in section 772 of the Tariff Act. Purchase price was based on the duty-paid, delivered, packed price paid by unrelated purchasers in the United States. We made adjustments, where applicable, for U.S. and foreign inland freight, ocean freight, insurance, handling charges, brokerage charges, Italian customs reimbursements, and U.S. duties. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act since sufficient quantities of such or similar merchandise were sold in the home market to provide a base for comparison. Home market price was based on the ex-factory price.

Since these are complex technical units we used the procedure developed in the previous review to make our determination. We determined the theoretical price of the U.S. and home market units according to the 1968 Westinghouse Electric Corporation price rules ("WPR") and found the U.S./home market ratio. We then adjusted each actual sales price to an ex-factory price. The next step was to adjust the home market ex-factory price to account for differences between the actual home market unit price and the theoretical price of that unit, including commissions to unrelated parties, credit, packing, warehousing, and cost-based physical characteristics of the home market unit which are not covered by the WPR. Further, we made an adjustment for differences in efficiency; that is, differences in internal transformer power losses. We then applied the theoretical ratio to the net home market transformer price.

Finally, we converted the adjusted home market price to U.S. dollars and made circumstance of sale adjustments. We also made cost-based adjustments for physical characteristics of the U.S. unit which are not covered by the WPR. No other adjustments to foreign market value were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer/ exporter	Period	Margin (percent)
Legnano	5/74—5/80	17.13
Do.	6/80—5/81	71.40
Do.	6/81—5/86	[1] 71.40
Ansaldo	6/83—5/85	0.00
O.E.L.	6/85—5/86	0.57

[1] No shipments during the period.

Interested parties may request disclosure and/or an administrative protective order within 5 days after the date of publication of this notice. Any requests for a hearing must be made within 8 days of the date of publication or the first workday thereafter. Interested parties may also submit written comments on these preliminary results within 30 days of the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act a cash deposit rate of estimated antidumping duties based on the above margins shall be required for all shipments by the companies reviewed of large power transformers from Italy.

For any future entries of this merchandise from a new exporter or manufacturer not covered in this or prior administrative reviews; whose first shipments occurred after May 31, 1986 and who is unrelated to any previously reviewed firm, a cash deposit of 0.57 percent on large power transformers shall be required. These deposit requirements are effective for all shipments of Italian large power transformers entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Dated: June 18, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary Import Administration.

[FR Doc. 87-14348 Filed 6-23-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-475-017]

Pads for Woodwind Instrument Keys From Italy; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On April 22, 1987, the Department of Commerce published the preliminary results of its administrative review on pads for woodwind instrument keys from Italy. The review covers one manufacturer/exporter of this merchandise to the United States and the period from April 25, 1984 through August 31, 1985.

We gave interested parties an opportunity to comment on the preliminary results. We did not receive any comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results.

EFFECTIVE DATE: June 24, 1987.

FOR FURTHER INFORMATION CONTACT: Laura Merchant or David Mueller, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On April 22, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 13265) the preliminary results of its administrative review of the antidumping duty order on pads for woodwind instrument keys from Italy (49 FR 37137, September 23, 1984). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of pads for woodwind instrument keys from Italy currently classifiable under item 726.7000 of the Tariff Schedules of the United States Annotated.

The review covers one manufacturer/exporter of Italian pads for woodwind instrument keys and the period April 25, 1984 through August 31, 1985.

Final Results of Review

We invited interested parties to comment on the preliminary results. We did not receive any comments. Based on our analysis, the final results of review are the same as those presented in the preliminary results of review.

Manufacturer/Exporter	Margin (percent)
Pads Manufacture s.r.l.	1.03

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisment instructions directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, the Department shall require a cash deposit of estimated dumping duties based on the above margin for Pads Manufacture.

For any future entries of this merchandise from a new exporter, not covered in this or prior administrative reviews, whose first shipments occurred after August 31, 1985, and who is unrelated to any reviewed firm, or any previously reviewed firm, a cash deposit of 1.03 percent shall be required. This deposit requirement is effective for all shipments of pads for woodwind instrument keys from Italy entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and will remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Dated: June 18, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-14350 Filed 6-23-87; 8:45 am]

BILLING CODE 3510-DS-M

Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Closed Meeting

A meeting of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held July 14, 1987, 9:30 a.m., the Herbert C. Hoover Building, Room 6802, 14th Street and Constitution Avenue NW., Washington, DC. The Committee advises the Office of Export Administration with respect to technical questions which affect the level of export controls applicable to computer systems or technology.

The Committee will meet only in executive session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 6, 1984, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the February Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202-377-4217. For further information contact Betty Ferrell at 202-377-2583.

Dated: June 19, 1987.

Betty A. Ferrell,

Acting Director, Technical Support Staff Office of Technology and Policy Analysis

[FR Doc. 87-14321 Filed 6-23-87; 8:45 am]

BILLING CODE 3510-DT-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amending the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement With Indonesia

June 19, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on June 25, 1987. For further information contact Pamela Smith, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

The Governments of the United States and the Republic of Indonesia have reached agreement, effected by exchange of letters dated April 1 and 2, 1987, to further amend the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 25 and October 3, 1985 by deleting the following paragraph from the agreement:

> Exports of cotton, wool and man-made fiber textile products in shipments individually valued at less than 250 dollars shall not be charged to the limits of this agreement.

In lieu of the foregoing paragraph, the following language is substituted:

> Merchandise imported for the personal use of the importer and not for resale, regardless of the value, and properly marked commercial sample shipments valued at 250 dollars or less do not require a visa for entry and shall not be charged to the Agreement levels.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the

Tariff Schedules of The United States Annotated (1987).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 19, 1987.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: To facilitate implementation of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated September 25 and October 3, 1985 between the Governments of the United States and the Republic of Indonesia, I request that, effective on June 25, 1987, you charge all imports of cotton, wool and man-made fiber textile products, produced or manufactured in Indonesia and exported to the United States for consumption and withdrawal from warehouse for consumption, which are not properly marked commercial sample shipments valued at U.S. $250 or less, or shipments for the personal use of the importer, and not for resale, regardless of value, to the restraint limits established under the bilateral agreement.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-14320 Filed 6-23-87; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Low Observable Technology

ACTION: Change in date/location of advisory committee meeting notice.

SUMMARY: The meeting of the Defense Science Board Task Force on Low Observable Technology scheduled for September 23-24, 1987 as published in the **Federal Register** (Vol. 51, No. 205, Page 37629, Thursday, October 23, 1986, FR Doc. 86-23948) will be held on June 29-30, 1987 at Wright Patterson AFB, Ohio. In all other respects the original notice remains unchanged.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

June 18, 1987.

[FR Doc. 87-14304 Filed 6-23-87; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Low Observance Technology Subgroup

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Low Observable Technology Subgroup will meet in closed session on August 18, August 19-20, September 14-15, and October 15-16, 1987 at Boeing, Seattle, Washington; Northrop, Los Angeles, California; Institute for Defense Analyses, Alexandria, Virginia; and Institute for Defense Analyses, Alexandria, Virginia, respectively.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will evaluate low observable technology.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

June 18, 1987.

[FR. Doc. 87-14305 Filed 6-23-87; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Non-Nuclear Strategic Capabilities

ACTION: Change in location of advisory committee meeting notice.

SUMMARY: The meeting of the Defense Science Board Task Force on Non-Nuclear Strategic Capabilities scheduled for June 24-25, 1987 as published in the **Federal Register** (Vol. 52, No. 28, Page 4377, Wednesday, February 11, 1987, FR Doc. 87-2829) will be held at Science Applications International Corporation, San Diego, California. This notice supersedes the change previously submitted in **Federal Register** (Vol. 52, No. 57, Page 9529, Wednesday, March 25, 1987, FR Doc. 87-6509).

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

June 18, 1987.

[FR Doc. 87-14306 Filed 6-23-87; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Practical Functional Performance Requirements

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Practical Functional Performance Requirements will met in closed session on July 28 and September 15, 1987 at the Naval Ocean Systems Command, San Diego, California; and the Lockheed Corporation, Washington, DC.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will reconvene to study recommendations made previously regarding key aspects of the aquisition process.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552(c)(1) (1982), and that accordingly these meetings will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

June 18, 1987.

[FR Doc. 87-14307 Filed 6-23-87; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Special Systems Subgroup, Pacific Command Air Defense

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Pacific Command Air Defense, Special Systems Subgroup will meet in closed session on September 16, 1987 at the Center for Naval Analyses, Alexandria, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of

Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will examine systems related to defense capabilities for shore installations in the Pacific Command and assess relevant technology, equipment, and modernization plans.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

June 18, 1987.

[FR Doc. 87–14308 Filed 6–23–87 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Date of meeting: 15 July, 1987.

Time of meeting: 0830–1600 hours.

Place: Science Applications International Corporation, McLean, Virginia.

Agenda: The ASB Ad Hoc Subgroup on U.S. Army CECOM RD&E Center.

Effectiveness Review will meet to discuss report findings and review draft report material. This meeting will be open to the public. Any person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 87–14312 Filed 6–23–87; 8:45 am]

BILLING CODE 3710–08–M

Defense Mapping Agency

Membership; Defense Mapping Agency Performance Review Board

AGENCY: Defense Mapping Agency (DMA), DOD.

ACTION: Notice of membership of the Defense Mapping Agency Performance Review (DMA PRB).

SUMMARY: This notice announces the appointment of the members of the DMA PRB. The publication of PRB membership is required by 5 U.S.C. 4314(c)(4).

The Board provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations regarding performance awards and pay level adjustments to the Director, DMA.

EFFECTIVE DATE: August 1, 1987.

FOR FURTHER INFORMATION CONTACT: Gerald F. Pittman, Defense Mapping Agency, Civilian Personnel Division, Bldg. 56, U.S. Naval Observatory, Washington, DC 20305–3000, telephone (202) 653–1581.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following are names and titles of the executives who have been appointed to serve as members of the DMA PRB. They will serve a 1-year renewable term effective August 1, 1987.

RADM Oakley E. Osborn, USN, Deputy Director, Headquarters, DMA

Mr. Lawrence F. Ayers, Deputy Director, Management and Technology, Headquarters, DMA

Mr. Curtis L. Dierdoff, Director of Personnel, Headquarters, DMA

Mr. Paul L. Peeler, Jr., Assistant Chief, Special Programs Division, Systems Center, DMA

Mr. John R. Vaughn, Comptroller, Headquarters, DMA

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

June 18, 1987.

[FR Doc. 87–14271 Filed 6–23–87; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

[CFDA NO. 84.133B].

Applications for New Awards Under the National Institute on Disability and Rehabilitation Research Programs of Rehabilitation Research and Training Centers; Invitation.

Purpose: Provides funding through grants or cooperative agreements to institutions of higher education or to public or private agencies or organizations, including Indian tribes or tribal organizations, in affiliation with institutions of higher education, to conduct programs of research, training, and related activities that meet the specifications in the proposed priorities published in the **Federal Register** of June 5, 1987 (52 FR 21345).

Deadline for transmittal of applications: The deadline for submission of applications is September 25, 1987.

Applications available: June 26, 1987.

Available funds: $6,600,000.

CFDA Number	Title of Priority	Available funds	Est. average award	Est. No. of awards	Anticipated project period (months)
84.133B	Progressive Neuromuscular Dieseas	$700,000	$700,000	1	60
84.133B	Multiple Sclerosis	700,000	700,000	1	60
84.133B	Rehabilitation and Childhood Trauma	700,000	700,000	1	60
84.133B	Arthritis and Related Musculoskeletal Disabilities.	700,000	700,000	1	60
84.133B	Moderate Traumatic Brain Injury	700,000	700,000	1	60
84.133B	Severe Traumatic Brain Injury	500,000	500,000	1	60
84.133B	Psychological/Social Adjustment and Community Integration in TBI.	700,000	700,000	1	60
84.133B	Secondary Complications of SCI	725,000	725,000	1	60
84.133B	Neural Recovery/Enhanced Function in SCI.	475,000	475,000	1	60
84.133B	Community-Oriented Services in SCI	700,000	700,000	1	60

Applicable regulations: (a) Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78, (b), proposed amendments to the regulations in 34 CFR Parts 350 and 352 when they become effective, and (c) the final funding priorities for this program when they become effective. Potential applicants should assume that there will be no changes in the final priorities. If there are significant differences in the final priorities, applicants will be given an opportunity to amend or resubmit their applications. Applicants should also assume that the proposed amendments to the regulations that govern this program will be adopted as published in the **Federal Register** on May 7, 1987 (52 FR 17368). If there are significant changes to the regulations,

applicants will be given the opportunity to modify their applications.

For applications or information contact: Dr. Paul Thomas, National Institute on Disability and Rehabilitation Research, U.S. Department of Education, 400 Maryland Avenue SW., Switzer Building, Room 3070, Washington, DC, 20202. Telephone: (202) 732–1194; deaf and hearing impaired individuals may call (202) 732–1198 for TTY services.

Program authority: 29 U.S.C. 762(b)(1).

Dated: June 19, 1987.

Madeleine Will,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 87–14326 Filed 6–23–87; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs and Energy Emergencies

Atomic Energy Agreements; Proposed Subsequent Arrangement; European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval for the return of irradiated research reactor fuel of United States origin containing 20 kilograms of enriched uranium from the HFR reactor in the Netherlands, for reprocessing and storage at Department of Energy facilities. The return of highly enriched uranium (HEU) is consistent with U.S. nonproliferation policy in that it serves to reduce the amount of HEU abroad.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner that fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: June 16, 1987.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 87–14301 Filed 6–23–87; 8:45 am]

BILLING CODE 6450–01–M

Atomic Energy Agreements; Proposed Subsequent Arrangement; European Atomic Energy Community and Norway

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Norway concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval for the following retransfer:

RTD/NO (EU)–54, for the transfer of 18 kilograms of uranium enriched to 19.95 percent in the isotope uranium-235 as uranium-oxide from the Federal Republic of Germany to Norway for fabrication of fuel elements for the Halden reactor.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: June 16, 1987.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 87–14302 Filed 6–23–87; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Financial Reporting System, Proposed 1987 Version of Form EIA–28

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Energy Information Administration (EIA), as required by the Paperwork Reduction Act of 1980, conducts a consultation program to provide the general public with an opportunity to comment on proposed and continuing report forms. This program helps to ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

At this time, the EIA solicits comments on the proposed version of Form EIA–28 to be used for the 1987 Financial Reporting System survey. Changes to the current version of the form are described in Part II of the Supplementary Information section of this Notice. Interested persons are asked to review and provide written comments to the contact person listed below.

DATE: Written comments must be submitted on or before July 24, 1987.

ADDRESS: Address comments to Gregory Filas, EI–641, U.S. Department of Energy, Mail Stop 1F–059, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 586–1347.

For further information or to obtain copies of the proposed form and instructions: To obtain additional information or to obtain copies of the proposed form and instructions, contact Gregory Filas at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background

This survey is required under section 205(h) of the Department of Energy Organization Act, Public Law 95–91. To meet this responsibility, the Form EIA–28 is used to obtain data from major energy producers. The form gathers data on financial and operating information disaggregated by energy lines of business and functional segments. Utilizing these data, EIA produces the annual report, Performance Profiles of Major Energy Producers. These data are also used to analyze financial aspects of taxation, energy resource development, and impacts of changes in world oil prices.

In the Conference Report accompanying Public Laws 99–500 and 99–951 (Making Continuing Appropriations for Fiscal Year 1987 and

for Other Purposes) the following guidance was provided:

> The managers agree that annual reports of the financial performance of major energy producing companies should be based on available publicly reported information, instead of information independently gathered for that purpose, such as on Form EIA-28.

Despite this language, the legislative requirement for data collections in support of the Financial Reporting System remains unchanged. (See Department of Energy Organization Act, Pub. L. No. 95-91, sec. 205(h)(4) (1977)). While the Form EIA-28, therefore, must continue, this proposal seeks to address the Conference Report guidance mentioned above through a simplification of Form EIA-28 resulting in a reduction of the paperwork burden of the reporting companies.

II. Current Actions

For the 1987 survey, the EIA proposes to make the following changes to the Form EIA-28:

(A) Institute reporting thresholds ($10 million in operating revenue) for coal, nuclear, and other energy lines of business. Companies that fall below the $10 million threshold would be exempt from reporting the detailed financial schedules for these segments.

(B) Modify EIA-28 to be consistent with current financial reporting standard and tax law changes. These changes are:

(1) Revise statement of sources and uses of funds schedule to conform with current financial reporting practices and to include treasury stock purchases.

(2) Exclude reporting of dry hold expense in capital expenditures.

(3) Report separately the gain or loss on dispositions of property, plant and equipment, and proceeds from such disposals.

(4) Report separately discontinued operations and the total of extraordinary items and the effect of accounting changes.

(5) To conform with changes in the tax laws, phase-out the investment tax credit, add the corporate alternative minimum tax, and capture "Superfund" payments.

(6) Report dollar amounts in millions rather than thousands.

(C) Reduce data reporting requirements by combining and eliminating selected financial and operating data elements as follows:

(1) Major changes are in "Other Energy" to combine oil shale, tar sands and coal gasification/liquefication into a single synfuels segment and to combine geothermal and other nonconventional energy into a single segment.

(2) Specific schedule changes are:

Schedule 5110—combine equity method and cost basis earnings of unconsolidated affiliates.
—combine extraordinary items and cumulative effect of accounting changes.
—eliminate allocation of minority interest and foreign currency translation effects.

Schedule 5111—eliminate reporting of research and development expenditures by categories of basic, applied and developmental.

Schedule 5112—for taxes other than income taxes only require allocation of production taxes and superfund payments.

Schedule 5120—eliminate segmental reporting of investment tax credit and capitalized interest.

Schedule 5210—see changes to schedule 5110 above.

Schedule 5211—eliminate reporting of data for new field discoveries.
—combine amounts for gas processing facilities and other developmental costs.

Schedule 5212—require disaggregation of third party sales for gasoline sales only.

Schedule 5241—eliminate reporting of data for new field discoveries.
—eliminate reporting of crude oil production by recovery method.

Schedule 5242—combine changes in refinery capacity due to new refineries, additions to existing refineries and other capacity reductions into other net capacity changes.

Schedule 5246—for domestic petroleum segment, eliminate reporting of proportionate interest in investee reserves, contract reserves, and contract production.

Schedule 5310—this schedule will be required only of companies with coal operating revenues in excess of $10 million.
—combine intersegment and third party sales to steel companies.
—eliminate reporting of coal royalty expense.
—combine purchases of domestic and foreign source coal.
—for additional changes see schedule 5110 above.

Schedule 5341—eliminate regional disaggregation by mining method.
—combine private, federal, and state/local lease/purchases of minerals in place.
—combine revisions and extensions, discoveries, etc., into other reserve changes.

Schedule 5410—this schedule will be required only of companies with nuclear operating revenues in excess of $10 million.
—eliminate reporting of sales of hexafluoride, nuclear fuel services, and other nuclear fuel products.
—combine mining and milling operating expenses.
—combine purchases of products with other general operating expenses.
—eliminate reporting of uranium imports.

Schedule 5441—eliminate reporting of land held at beginning of period.
—combine exploration and development drilling costs and footage.
—combine reserve changes into a single element.

Schedule 5510—this schedule will be required only of companies with "Other Energy" operating revenues in excess of $10 million.
—as noted above, oil shale, tar sands and coal gasification/liquefication are combined into synfuels, and geothermal and other nonconventional energy are combined into a single segment.

In addition to the institution of reporting thresholds, as stated in II.(B)(6) above, all financial data will be collected in millions of dollars rather than thousands of dollars.

Measured from the 1985 reporting year, EIA believes these changes will result in about 30% reduction in the reporting burden imposed on the respondents. Furthermore, the automated personal computer (PC) system instituted for the 1986 survey, currently being conducted, is also expected to reduce respondent burden. This PC system is in keeping with EIA's efforts to utilize improved information technology as required by the Paperwork Reduction Act of 1980.

III. Request for Comments

Prospective respondents, data users and other interested parties are invited to submit written comments on this proposal within 30 days of the publication of this notice. The following general guidelines are provided to assist in the preparation of responses.

As a potential respondent:

A. Are the instructions and definitions clear and sufficient? If not, what instructions require clarification?

B. Can the data be submitted using the definitions included in the instructions?

C. Can the data be submitted in accordance with the response time specified in the instructions?

D. How many hours, including time for preparation and administrative review, would you require to complete and submit the required form?

E. What is the estimated cost of completing this form, including the direct and indirect costs associated with the data collection? Direct cost should include all costs, such as administrative costs, directly attributable to providing this information.

F. How can the form be improved?

G. Do you know other Federal, State, or local agencies that collect similar data? If you do, specify the agency, the data elements, and the means of collection.

H. Do you know of publicly available data that are similar to data collected on Form EIA-28?

As a potential data user:

A. Can you use aggregated data based on the levels of detail indicated on the form?

B. For what purposes do you use the data? Be specific.

C. How could the form be improved to meet your specific needs?

D. Are there alternate sources of data and do you use them? What are their deficiencies and/or strengths?

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this data survey. They also will become a matter of public record. For more information on this subject, please contact Mr. Filas (see Address above).

Statutory authority: Sections 5(a), 5(b), 13(b), and 52 of Public Law 93–275, Federal Energy Administration Act of 1974, as amended (15 U.S.C. 764(a), 764(b), and 790a).

Issued in Washington, DC on June 18, 1987.

L.A. Pettis,

Deputy Administrator, Energy Information Administration.

[FR Doc. 87–14303 Filed 6–23–87; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–180734; FRL–3220–9]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests to the 19 States listed below and three quarantine exemptions granted to the United States Department of Agriculture. Also listed are three crisis exemptions initiated by the Florida Department of Agriculture and Consumer Services and the United States Department of Agriculture/APHIS. These exemptions, issued during the months of February and March, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific, quarantine, and crisis exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption for the name of the contact person. The following information applies to all contact persons: By mail:

Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

Office location and telephone number: Room 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–1806)

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Alabama Department of Agriculture and Industries for the use of anilazine on watercress to control leaf spot; March 13, 1987 to October 31, 1987. (Libby Pemberton)

2. Arizona Commission of Agriculture and Horticulture for the use of triadimefon on tomatoes to control powdery mildew; March 23, 1987 to July 31, 1987. (Gene Asbury)

3. Arkansas State Plant Board for the use of Harmony on wheat to control wild garlic; March 3, 1987 to April 30, 1987. Solicitation of public comment was published in the **Federal Register** of February 18, 1987 (52 FR 4962). The 15-day period for comments was shortened to 13 days in order to make a timely decision, and no comments were received. The exemption was granted based on the finding that an emergency situation existed and that the proposed use of Harmony would not pose adverse effects to man and the environment. An emergency situation was deemed to exist due to the fact that wild garlic had become a worsening problem to wheat growers as a result of increased no-till and reduced tillage practices, the ineffectiveness of registered alternatives, and increases in the number of set-aside acres where weeds are not controlled. (Jack E. Housenger)

4. California Department of Food and Agriculture for the use of triadimefon on tomatoes to control powdery mildew; March 23, 1987 to February 28, 1988 (Gene Asbury)

5. California Department of Food and Agriculture for the use of diflubenzuron on home garden crops to control gypsy moths; February 17, 1987 to February 16, 1990. (Jim Tompkins)

6. California Department of Food and Agriculture for the use of methidathion on kiwi to control scale; February 11, 1987 to March 31, 1987. (Jim Tompkins)

7. Colorado Department of Agriculture for the use of fenvalerate on small grains (wheat, oats, and barley) to control pale western and army cutworms; March 17, 1987 to June 15, 1987. (Gene Asbury)

8. Colorado Department of Agriculture for the use of fluazifop-butyl on dry bulb onions to control grassy weeds; March 27, 1987 to July 31, 1987. (Libby Pemberton)

9. Florida Department of Agriculture and Consumer Services for the use of iprodione on carrots to control alternaria leaf blight; March 4, 1987 to June 15, 1987. Florida had initiated a crisis exemption for this use. (Jim Tompkins)

10. Florida Department of Agriculture and Consumer Services for the use of thiobencarb on celery and lettuce to control broadleaf weeds; March 25, 1987 to August 31, 1987. (Jim Tompkins)

11. Illinois Governor's Office for the use of Harmony on wheat to control wild garlic; March 3, 1987 to April 30, 1987. Solicitation of public comment was published in the **Federal Register** of February 18, 1987 (52 FR 4962). The 15-day period for comments was shortened to 13 days in order to make a timely decision, and no comments were received. The exemption was granted based on the finding that an emergency situation existed and that the proposed use of Harmony would not pose adverse effects to man and the environment. An emergency situation was deemed to exist due the fact that wild garlic had become a worsening problem to wheat growers as a result of increased no-till and reduced tillage practices, the ineffectiveness of registered alternatives, and increases in the number of set-aside acres where weeds are not controlled. (Jack E. Housenger)

12. Kentucky Department of Agriculture for the use of Harmony on wheat to control wild garlic; March 6, 1987 to April 30, 1987. Solicitation of public comment was published in the **Federal Register** of January 29, 1987 (52 FR 2958), and no comments were received. The exemption was granted based on the finding that an emergency situation existed and that the proposed use of Harmony would not pose adverse effects to man and the environment. An emergency situation was deemed to exist due the fact that wild garlic had become a worsening problem to wheat growers as a result of increased no-till and reduced tillage practices, the ineffectiveness of registered alternatives, and increases in the number of set-aside acres where weeds are not controlled. (Jack E. Housenger)

13. Maryland Department of Agriculture for the use of anilazine on watercress to control leaf spot; March 13, 1987 to October 31, 1987. (Libby Pemberton)

14. Michigan Department of Agriculture for the use of metolachlor on dry bulb onions to control grassy weeds; February 11, 1987 to September 15, 1987. (Libby Pemberton)

15. Minnesota Department of Agriculture for the use of fluazifop-butyl on dry bulb onions to control grassy weeds; March 27, 1987 to September 1, 1987. (Libby Pemberton)

16. Missouri Department of Agriculture for the use Harmony on wheat to control wild garlic; March 6, 1987 to April 30, 1987. Solicitation of public comment was published in the **Federal Register** of February 18, 1987 (52 FR 4962), and no comments were received. The exemption was granted based on the finding that an emergency situation existed and that the proposed use of Harmony would not pose adverse effects to man and the environment. An emergency situation was deemed to exist due to the fact that wild garlic had become a worsening problem to wheat growers as a result of increased no-till and reduced tillage practices, the ineffectiveness of registered alternatives, and increases in the number of set-aside acres where weeds are not controlled. (Jack E. Housenger)

17. Montana Department of Agriculture for the use of fenvalerate on small grains (wheat, oats, and barley) to control pale western and army cutworms; March 17, 1987 to June 30, 1987. (Gene Asbury)

18. Ohio Department of Agriculture for the use of fluazifopbutyl on dry bulb onions to control grassy weeds; March 27, 1987 to September 1, 1987. (Libby Pemberton)

19. Pennsylvania Department of Agriculture for the use of sodium fluoaluminate on potatoes to control Colorado potato beetles; April 20, 1987 to October 31, 1987. (Gene Asbury)

20. Texas Department of Agriculture for the use of cypermethrin on dry bulb onions to control onion thrips; February 3, 1987 to September 15, 1987. (Stan Austin)

21. Virginia Department of Agriculture and Consumer Services for the use of Harmony on wheat and barley to control wild garlic; March 3, 1987 to April 30 1987. Solicitation of public comment was published in the **Federal Register** of January 29, 1987 (52 FR 2958), and no comments were received. The exemption was granted based on the finding that an emergency situation existed and that the proposed use of Harmony would not pose adverse effects to man and the environment. An emergency situation was deemed to exist due the fact that wild garlic had become a worsening problem to wheat growers as a result of increased no-till and reduced tillage practices, the ineffectiveness of registered alternatives, and increases in the number of set-aside acres where weeds are not controlled. (Jack E. Housenger)

22. West Virginia Department of Agriculture for the use of anilazine on watercress to control leaf spot; March 13, 1987 to October 31, 1987. (Libby Pemberton)

23. Wisconsin Department of Agriculture, Trade, and Consumer Protection for the use of mancozeb on American ginseng to control phytopthora and alternaria; March 23, 1987 to September 30, 1987. (Jim Tompkins)

24. Wisconsin Department of Agriculture, Trade, and Consumer Protection for the use of fluazifop-butyl on dry bulb onions to control grassy weeds; March 27, 1987 to September 1, 1987. (Libby Pemberton)

Crisis exemptions were initiated by the:

1. Florida Department Agriculture and Consumer Services on March 3, 1987 for the use of cyromazine on tomatoes (fresh market) to control leafminers. This program is expected to last until December 31, 1987. (Gene Asbury)

2. United States Department of Agriculture/APHIS on March 5, 1987 for the use of malathion on fruits and vegetables to control the Mediterranean fruit fly. This program is expected to last until March 5, 1988. (Libby Pemberton)

3. United States Department of Agriculture on March 6, 1987 for the use of diazinon on fruits and vegetables to control the Mediterranean fruit fly. This program is expected to last until March 6, 1988. (Libby Pemberton)

Quarantine exemptions were granted by the:

1. United States Department of Agriculture/APHIS for the use of dichlorvos (DDVP) in traps to monitor the Mediterranean fruit fly; April 9, 1987 to April 9, 1990. (Gene Asbury)

2. United States Department of Agriculture/APHIS for the use of diquat on citrus trees to control citrus canker in Florida; March 13, 1987 to March 1, 1990. (Jim Tompkins)

3. United States Department of Agriculture/APHIS for the use of quaternary ammonia compounds on equipment to control citrus canker in Florida; March 13, 1987 to March 1, 1990. (Jim Tompkins)

Authority: 7 U.S.C. 136.

Dated: June 12, 1987.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 87-14224 Filed 6-23-87; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180740; FRL-3221-3]

Receipt of Applications for Specific Exemptions To Use Methyl 3-[[[[(4-Methoxy-6-Methyl-1,3,5-Triazin-2-Yl)Amino] Carbonyl]Amino]Sulfonyl]-2-Thiophenecarboxylate and Notification of Issuance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt and issuance.

SUMMARY: EPA has received specific exemption requests from the Indiana State Chemist and Seed Commissioner and the Ohio Department of Agriculture (hereinafter referred to individually by state or collectively as "Applicants") for use of the unregistered pesticide product Harmony to control wild garlic in wheat. Harmony, manufactured by E.I. duPont de Nemours and Company, contains the unregistered active ingredient methyl 3-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino] carbonyl]amino]sulfonyl]-2-thiophenecarboxylate. EPA, in accordance with 40 CFR 166.24, is required to issue a notice of receipt and, time permitting, to solicit public comment before making the decision whether to grant the exemptions. Due to the critical nature of the emergency situation, there was insufficient time to solicit public comments. The Agency has granted specific exemptions to the States for this use of Harmony.

FOR FURTHER INFORMATION CONTACT: By mail:

Jack E. Housenger, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460

Office location and telephone number: Rm. 716C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7889)

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicants requested the Administrator to permit the use of the use of the unregistered pesticide product, Harmony, to control wild garlic in wheat. Information in accordance with 40 CFR Part 166 was submitted as part of these requests.

The Applicants claimed that emergency conditions exist due to the presence of wild garlic bulbets in harvested wheat. The Applicants

claimed that the registered alternatives currently available do not provide a sufficient level of control of wild garlic. The Applicants claimed that wheat growers have traditionally used 2,4-D and dicamba to control this weed. It was indicated that these pesticides only provide 50 to 60 percent control of wild garlic. Additionally, the Applicants claimed that increases in no-till and reduced tillage acreage have allowed for the proliferation of wild garlic in wheat. More intensely managed wheat acreage and an increase in set-aside acres has also increased the wild garlic problem.

According to the Applicants, growers would expect to lose approximately $1 million in Ohio and Indiana growers could experience loses of 25 percent due to garlicky wheat.

A maximum of one postemergence application of Harmony was authorized with applications to be made between the two-leaf and boot stage of wheat when wild garlic is 6 to 12 inches high. A maximum of 0.5 ounce of product in Ohio and 0.67 ounce of product in Indiana was allowed to be applied per acre.

A maximum of 50,000 acres of wheat was allowed to be treated in Ohio and a maximum of 200,000 acres in Indiana. Applications were made using either aerial or ground equipment. All applications were made by or under the direct supervision of certified applicators.

The regulations governing section 18 require publication of notice of receipt in the **Federal Register** of an application for a specific exemption proposing use of a new chemical. Harmony contains an active ingredient which has not yet been registered by the Agency.

The Applicants submitted the exemption requests close to the time applications of the pesticide were to be made. Consequently, there was not adequate time to allow for the opportunity for public comment. The Agency decided to grant the exemptions after determining that an emergency situation existed and that the proposed use would not pose adverse effects to man and the environment. The Agency concluded in its assessment of the situation that wild garlic had become a worsening problem to wheat growers as a result of increased no-till and reduced tillage practices, the ineffectiveness of registered alternatives, and increases in the number of set-aside acres where weeds are not controlled. The specific exemptions were granted on March 27, 1987, and expired on April 30, 1987.

Dated: June 9, 1987.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 87-14227 Filed 6-23-87; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30242A; FRL-3221-1]

Approval of a Pesticide Product Registration; ICI Americas, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of an application submitted by ICI Americas Inc., to conditionally register the pesticide product Reflex 2LC Herbicide containing an active ingredient not included in any previously registered product pursuant to the provision of section 3(c)(7) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended.

FOR FURTHER INFORMATION CONTACT: By mail:

Richard Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460

Office location and telephone number: Rm. 237, TS-767C, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of July 18, 1984 (49 FR 29130), which announced that ICI Americas Inc., Concord Pike and New Murphy Road, Wilmington, DE 19897, had submitted an application to conditionally register the pesticide product Flex 2LC Herbicide containing the active ingredient sodium salt of fomesafen 5-[2-chloro-4-(trifluoromethyl)phenoxy)-*N*-(methylsulfonyl)-2-nitrobenzamide an ingredient not included in any previously registered product.

The application was approved on April 10, 1987 to conditionally register the pesticide product as Reflex 2LC Herbicide for postemergence control of broadleaf weeds in soybeans. The was product assigned EPA Registration No. 10182-83.

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest.

The Agency has considered the available data on the risks associated with the proposed use of sodium salt of fomesafen 5-[2-chloro-4-(trifluoromethyl)phenoxy)-*N*-(methylsulfonyl)-2-nitrobenzamide and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of sodium salt of fomesafen 5-[2-chloro-4-(trifluoromethyl)phenoxy]-*N*-(methylsulfonyl)-2-nitrobenzamide during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is, in the public interest.

Consistent with section 3(c)(7)(C), the Agency has determined that this conditional registration is in the public interest. Use of this pesticide is of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticide will not result in unreasonable adverse effects to man and the environment. More detailed information on this conditional registration is contained in a Chemical Fact Sheet on sodium salt of fomesafen 5-[2-chloro-4-(trifluoromethyl)phenoxy]-*N*-(methylsulfonyl)-2-nitrobenzamide.

A copy of this fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from Registration Division (TS-767C), Environmental Protection Agency, Registration Support and Emergency Response Branch, 401 M St., SW., Washington, DC 20460.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 236, CM#2, Arlington, VA 22202 (703-557-3262). Request for data must be made in

accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 401 M St., SW., Washington, DC 20460. Such requests should: (1) identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

Dated: June 12, 1987.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 87–14225 Filed 6–23–87; 8:45 am]

BILLING CODE 6560–50–M

[PP 4G3039/T543; FRL–3219–7]

Renewal of Exemptions From Requirement of Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has renewed exemptions from the requirement of tolerances for residues of the plant growth regulator lactic acid in or on certain raw agricultural commodities.

DATE: These temporary exemptions from the requirement of tolerances expire April 8, 1988.

FOR FURTHER INFORMATION CONTACT: By mail:

Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460

Office location and telephone number: Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of July 2, 1986 (51 FR 24219) that temporary exemptions from the requirement of tolerances were renewed for residues of the plant growth regulator lactic acid in or on the raw agricultural commodities apples, beans (green and dry), broccoli, cabbage, cauliflower, cherries, citrus, corn (sweet and field), grapes, peppers (green and chile), prunes, strawberries, and tomatoes. These exemptions from the requirement of tolerances were renewed in response to pesticide petition PP 4G3039, submitted by Brea Agricultural Services, Inc., Drawer I, Stockton, CA 95201.

The company requested a renewal of the temporary exemptions from the requirement of tolerances to permit the continued marketing of the above raw agricultural commodities when treated in accordance with the provisions of experimental use permit 9018–EUP–1, which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the exemptions from the requirement of tolerances will protect the public health. Therefore, the temporary exemptions from the requirement of tolerances have been renewed on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active plant growth regulator to be used must not exceed the quantity authorized by the experimental use permit.

2. Brea Agricultural Services must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary exemptions from the requirement of tolerances expire April 8, 1988. Residues not in excess of these amounts remaining in or on the above raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary exemptions from the requirement of tolerances. These temporary exemptions from the requirement of tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: June 9, 1987.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 87–13926 Filed 6–23–87; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59209B; FRL–3222–7]

Certain Chemicals; Modifications of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's modification of two test marketing exemptions (TMEs) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME–86–8 and TME–86–9. The modifications are described below.

EFFECTIVE DATE: June 15, 1987.

FOR FURTHER INFORMATION CONTACT: Keith Cronin, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Room E–613C, 401 M St. SW., Washington, DC 20460, (202–382–3769).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its findings that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves the application for modification of the test marketing periods for TME–86–8 and TME–86–9. This modification extends the test marketing periods from 3 to 6 months, commencing on the first day of manufacture. EPA has determined that test marketing of the new chemical substances described below, under the conditions set out below and in the TME application and modification request time periods specified below, will not present any unreasonable risk of injury to health or the environment. Production volumes, uses, and the number of customers must not exceed those specified in the application. All other

conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME–86–8 and TME–86–9. A bill of lading accompanying each shipment must state that the use of each substances is restricted to that approved in the TME. In addition, the Company shall maintain the following records until five years after the dates they are created, and shall make them available for inspection or copying in accordance with section II of TSCA:

1. The applicant must maintain records of the quantities of the TME substances produced.

2. The applicant must maintain records of dates of the shipments to the customers and the quantities supplied in each shipment.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of each TME substance.

4. The applicant and its customer must maintain the following information on disposal of T–86–8 and 86–9; dates waste materials are disposed of, location of disposal site, volume of any disposal material, and the estimated volume of any liquid waste containing the TME substances.

TME–86–8

Date of receipt: December 2, 1985.
Notice of receipt: December 16, 1985.
Applicant: Confidential.
Chemical: (G) Substituted polyethylene oxide diol end-capped with isocyanate.
Use: (G) Chemical intermediate.
Production volume: Confidential.
Number of customers: Confidential.
Worker exposure: Manufacture: dermal and inhalation exposure to a total of 6 workers.
Modified test marketing period: Six months.
Commencing on: Date of Manufacture.

TME–86–9

Date of receipt: December 2, 1985.
Notice of receipt: December 16, 1985.
Applicant: Confidential.
Chemical: (G) Substituted polyethylene oxide diol.
Use: (G) Chemical intermediate.
Production volume: Confidential.
Number of customers: Confidential.
Worker exposure: Manufacture: dermal and inhalation, exposure to a total of 6 workers.
Modified test marketing period: Six months.
Commencing on: Date of Manufacture.
Risk assessment: EPA identified no significant health concerns. EPA identified potential adverse environmental effects associated with exposure to the TME substances.

However, EPA has determined that, under the conditions outlined above, there will be no significant releases of the TME substances to the environment. Therefore, the test marketing activities will not present any unreasonable risk to the environment.

Public comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of any exemption should any information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or to environment.

Dated: June 15, 1987.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 87–14325 Filed 6–23–87; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Proceeding; Meridian Communications et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and State	File No.	MM Docket No.
A. Josephine M Rodriguez d.b.a. Meridian Communications; Fargo, ND.	BPH–850710NA	87–177
B. PN Radio Co.; Fargo, ND.	BPH–850711OL	
C. Howard G. Bill; Fargo, ND.	BPH–850711PN (Dismissed).	
D. Holden Enterprises; Fargo, ND.	BPH–850712M4	
E. FM America Corp.; Fargo, ND.	BPH–850712M5	
F. Nan E. Carlisle & Jitendra R. Patel; Fargo, ND.	BPH–850712M6	
G. Q Prime Inc., Fargo, ND	BPH–850712VL (Dismissed).	
H. Mary L. Smith d.b.a. Radio Fargo; Fargo, ND.	BPH–850712Y8	
I. Susan Lundborg; Fargo, ND.	BPH–850712Z6	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, D, H
2. Comparative, All
3. Ultimate, All

3. If there is any non-standardized issue(s) in this proceeding, the fill text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87–14288 Filed 6–23–87; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 1664]

Petitions for Reconsideration and Clarification of Actions in Rulemaking Proceedings

June 18, 1987

Petitions for reconsideration and clarification have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor, International Transcription Service (202–857–3800). Oppositions to these petitions must be filed July 9, 1987. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions have expired.

Subject: MTS and WATS Market Structure (CC Docket No. 78–72) Amendments of Part 67 (New Part 36) of the Commission's Rules and Establishment of a Federal-State Joint Board. (CC Docket Nos. 80–286 & 86–297) Number of petitions received: 14.

Subject: Amendment of § 73.202(b), Table of allotments, FM Broadcast Station. (San Clemente, California) (MM Docket No. 84–442, RM–4724) Number of petitions received: 2.

Subject: Amendment of the Commission's Rule for Rural Cellular Service. (CC Docket No. 85–388, RM–5167) Number of petitions received: 4.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87–14284 Filed 6–23–87; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Statement of Policy Regarding Applications for Federal Deposit Insurance by Operating Non-FDIC Insured Institutions; Amendment

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Amendment to statement of policy.

SUMMARY: The FDIC is amending its statement of policy concerning granting insurance to operating institutions. The amendment changes the type of accounting firm acceptable for performing audits on institutions applying for insurance from an independent public accounting firm to a certified public accounting firm.

EFFECTIVE DATE: June 9, 1987.

FOR FURTHER INFORMATION CONTACT: Robert F. Miailovich, Associate Director, Division of Bank Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429, telephone (202) 898–6918.

SUPPLEMENTARY INFORMATION: On May 28, 1987, the Board of Directors of the FDIC adopted a statement of policy entitled, "Statement of Policy Regarding Applications for Federal Deposit Insurance by Operating Non-FDIC Insured Institutions." 52 FR 21736. In adopting the statement of policy, the Board of Directors intended to revisit the issue of the type of accounting firm that would be deemed acceptable to conduct audits to be submitted with applications for FDIC insurance.

The Board of Directors concludes that certified public accountants are generally recognized as being the most qualified of accounting practitioners by virtue of their possessing at least a minimum level of competence in certain designated areas. Therefore, the FDIC, in evaluating the insurability of an applicant, has greater assurance that audits conducted by certified public accounting firms can be relied upon compared to audits conducted by firms that are not certified.

Amended Guideline

Guideline (7) is amended to read: "(7) the FDIC expects, unless waived in writing by the FDIC, any applicant with more than $50 million in assets to have a full-scope audit conducted by a certified public accounting firm prior to submitting an application and requests that a copy of the auditor's report be included as part of the application. The FDIC may require such an audit, on a case-by-case basis, for applicants with assets of $50 million or less."

By order of the Board of Directors. Dated at Washington, DC this 9th day of June 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87–14338 Filed 6–23–87; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Agreement Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–010619–003.

Title: Port of Oakland Terminal Agreement.

Parties:

Port of Oakland.

EAC Lines Trans Pacific Service, Ltd.

Synopsis: The proposed agreement amendment provides that EAC Lines Trans Pacific Service, Ltd. has the right to transfer the agreement to other of the Port of Oakland's public container terminals which may be exercised in less than the currently specified sixty days' prior written notice as is acceptable to the Port of Oakland.

By Order of the Federal Maritime Commission.

Dated: June 19, 1987.

Joseph C. Polking,

Secretary.

[FR Doc. 87–14339 Filed 6–23–87; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

June 18, 1987.

Background

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public).

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nancy Steele—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3822).

OMB Desk Officer—Robert Fishman—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202–395–7340).

Proposal to Approval Under OMB Delegated Authority the Discontinuance of the Following Reports

1. Report title: Monthly Survey of Commercial and Industrial Loan Commitments:

Agency form number: FR 2039

OMB Docket number: 7100–0065

Frequency: monthly

Reporters: Selected large U.S. commercial banks

Annual reporting hours: 7906 hours

Small businesses are not affected.

General description of the report:

This survey provides information on the volume and composition of loan commitments at selected large U.S. commercial banks, used in analysis of banking developments and credit market conditions. The report is to be discontinued in view of financial market changes that reduce the need for this information.

This report is voluntary and authorized by law (12 U.S.C. 248(a)). Individual respondent data are given confidential treatment (5 U.S.C. 552(b)(4) and (8)).

2. Report title: Monthly Report on the Maturity Distribution of Negotiable Certificates of Deposit of $100,000 or More:

Agency form number: FR 2078

OMB Docket number: OMB No. 7100–0179

Frequency: monthly

Reporters: certain large commercial banks

Annual reporting hours: 456

Small businesses are not affected.

General description of report:

This report provides data used to monitor bank funding strategy and liquidity pressure. It is to be discontinued in view of changes in bank funding strategy which reduce the need for this information.

This report is voluntary and authorized by law (12 U.S.C. 225(a) and 248(a)). Individual respondent data are given confidential treatment (5 U.S.C. 552(b) (4) and (8)).

Board of Governors of the Federal Reserve System, June 18, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87-14272 Filed 6-23-87; 8:45 am]

BILLING CODE 6210-01-M

Agency Forms Under Review

June 18, 1987.

Background

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nancy Steele—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822).

OMB Desk Officer—Robert Fishman—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-7340).

Proposal to Approve Under OMB Delegated Authority the Extension, Without Revision, of the Following Reports

1. Report title: Mortgage Loan Disclosure Statement:

Agency form number: FR HMDA-1
OMB Docket number: 7100-0090
Frequency: Annual
Reporters: State member banks
Annual reporting hours: 8790 hours
Small businesses are not affected.

General description of the report:

This form collects data from state member banks under the Home Mortgage Disclosure Act, 12 U.S.C. 2801-2811 (HMDA), as implemented by the Board's Regulation C, 12 CFR 203. The Act requires depository institutions to make annual disclosures that show a geographic breakdown of their mortgage loans for the purchase or improvement of residential property.

This information collection is mandatory (12 U.S.C. 2801-2811), and is not given confidential treatment.

Board of Governors of the Federal Reserve System, June 18, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87-14273 Filed 6-23-87; 8:45 am]

BILLING CODE 6210-01-M

Agency Forms under Review

June 18, 1987.

Background

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR § 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nancy Steele—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822)

OMB Desk Officer—Robert Fishman—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-7340)

Proposal to Approve Under OMB Delegated Authority the Extension, With Revision, of the Following Reports

1. Report title: Reports of Financial Condition of Primary Dealers in U.S. Government Securities

Agency form number: FR 2002
OMB Docket number: 7100-0010
Frequency: monthly and annual
Reporters: Primary Dealers in U.S. Government Securities
Annual reporting hours: 3076 hours
Small businesses are not affected.

General description of the report:

The reporting framework for primary dealers in U.S. Government Securities is proposed to be revised. Under this proposal, two existing reporting forms filed by bank dealers (FR 2002) and nonbank dealers (FR 2003) would be discontinued and replaced with a requirement that dealers file: (1) A Primary Dealer Profit Center (PDPC) Report numbered FR 2002 and (2) copies of specified reports prepared by dealers for other purposes, i.e., for regulatory, internal management, or audit purposes. The PDPC report collects income and expense data, by profit center unit, from bank and nonbank primary dealers in U.S. Government Securities, to provide information on the firm's activities in the markets for Treasury and agency securities, mortgage-backed securities, private money-market instruments, and related arbitrage and financing activities. These data and the supplementary reports to be filed are required to assist the Federal Reserve in connection with its responsibilities for the conduct of monetary policy and in evaluating the Government Securities market.

This information collection is authorized by law (12 U.S.C. 248(a)(2), 353-359a and 391) and is given confidential treatment (5 U.S.C. 552(b)(4)(4)).

Board of Governors of the Federal Reserve System, June 18, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87-14274 Filed 6-23-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Development of a Lung-Cell Model for Studying Workplace Genotoxicants Pulmonary Response To Inhaled Fibrogenic Minerals; Open Meetings

The following meetings will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control (CDC) and will be open to the public for observation and participation, limited only by the space available:

Development of a Lung-Cell Model for Studying Workplace Genotoxicants

Date: July 8, 1987.
Time: 9 a.m. to 10:30 a.m.
Place: Room 203, Appalachian Laboratory for Occupational Safety and Health, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.
Purpose: To review the project entitled "Development of a Lung-Cell Model for Studying Workplace Genotoxicants."

Additional information and copies of the research protocol may be obtained from: Wen-Zong Whong, Ph.D., Division of Respiratory Disease Studies, NIOSH, CDC, 944 Chestnut Ridge Road, Morgantown, West Viringia 26505. Telephones FTS: 923-4516, Commercial: 304/291-4516.

Pulmonary Response To Inhaled Fibrogenic Minerals

Date: July 8, 1987.
Time: 10:30 a.m. 12:00 noon.
Place: Room 203, Appalachian Laboratory for Occupational Safety and Health, 944 Chestnut Ridge Road, Morgantown, West Virginia.
Purpose: To review the project entitled "Pulmonary Response to Inhaled Fibrogenic Minerals."

Additional information and copies of the research protocol may be obtained from: Val Vallyathan, Ph.D., Division of Respiratory Disease Studies, NIOSH, CDC, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505, Telephones: FTS 923–4581, Commercial: 304/291/4581.

Viewpoints and suggestions from industry, organized labor, academia, other governmental agencies, and the public are invited.

Dated: June 17, 1987

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 87–14282 Filed 6–23–87; 8:45 am]

BILLING CODE 4160–19–M

DEPARTMENT OF THE INTERIOR

[AA220–07–4322–12]

Bureau of Land Management

Bureau Forms Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau's Clearance Officer and to the Office of Management and Budget, Interior Department Desk Officer, Washington, DC 20503, Telephone (202) 395–7340.

Title: Exchange of Use Grazing Agreement, 43 CFR 4130.

Abstract: This form is used to request recognition of intermingled private land and grazing capacity on the Federal grazing permit and management programs.

Bureau Form Number: 4130–4.

Frequency: Occasionally.

Description of Respondents: Livestock grazing permittees on the public land.

Annual Responses: 600.

Annual Burden Hours: 198.

Bureau Clearance Officer (alternate): Rick Iovaine (202) 653–8853.

Dated: May 29, 1987.

Guy E. Baier,

Deputy Assistant Director, Land and Renewable Resources.

[FR Doc. 87–14314 Filed 6–23–87; 8:45 am]

BILLING CODE 4310–84–M

[WY–920–07–4111–15; W–86353–B]

Proposed Reinstatement of Terminated Oil and Gas Lease; Wyoming

June 17, 1987.

Pursuant to the provisions of Pub. L. 97–451, 96 Stat. 2462–2466, and Regulation 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatment of oil and gas lease W–86353–B for lands in Sweetwater County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10 per acre, or fraction thereof, per year and not less than 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice.

The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W–86353–B effective October 1, 1986, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 87–14354 Filed 6–23–87; 8:45 a.m.]

BILLING CODE 4310–22–M

[WY–920–07–4111–15; W–86636]

Proposed Reinstatement of Terminated Oil and Gas Lease; Wyoming

June 17, 1987.

Pursuant to the provisions of Pub. L. 97–451, 96 Stat. 2462–2466, and Regulation 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease W–86636 for lands in Campbell County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice.

The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W–86636 effective November 1, 1986, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 87–14355 Filed 6–23–87; 8:45 am]

BILLING CODE 4310–22–M

[AZ–020–07–4212–12; A 20346–Q]

Realty Action; Exchange of Public Lands in Pima County, AZ

BLM proposes to exchange public land in order to achieve more efficient management of the public land through consolidation of ownership.

The following public land is being considered for disposal by exchange pursuant to the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716.

Gila and Salt River Meridian, Arizona

T. 17 S., R. 10 E.,

Sec. 23, Lots 1, 2, NW¼NE¼, W½;
Sec. 27, S½;
Sec. 34, N½.

T. 18 S., R. 12 E.,

Sec. 11, Lots 1, 2, S½NE¼, E½NW¼;
NE¼SW¼, N½SE¼;
Sec. 12, All unpatented land.

Containing approximately 1600 acres.

Final determination on disposal will await completion of an environmental analysis.

In accordance with the regulations of 43 CFR 2201.1 (b), publication of this Notice will segregate the affected public lands from appropriation under the public land laws, including the mining laws, but not the mineral leasing laws or Geothermal Steam Act.

The segregation of the above-described lands shall terminate upon issuance of a document conveying such lands or upon publication in the **Federal Register** of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

For a period of forty-five (45) days, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Dated: June 12, 1987.

Henri R. Bisson,

District Manager.

[FR Doc. 87-14294 Filed 6-23-87; 8:45 am]

BILLING CODE 4310-32-M

[AZ-020-07-4212-12; A-22699]

Realty Action; Exchange of Public Lands in Yavapai, and Pinal Counties, AZ

AGENCY: Bureau of Land Management (BLM), Interior.

REALTY ACTION: Exchange of public lands, Yavapai and Pinal Counties, Arizona.

Public lands managed by the Phoenix District have been determined to be suitable for disposal by exchange with the state of Arizona as authorized by section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716.

Approximately 4273.67 acres of public land within the following townships and sections will be exchanged for 12,382.94 acres of state land. The exchange will be on an equal value basis as determined by appraisal.

Gila and Salt River Meridian, Arizona

T. 12 N., R. 1 E.,
Sec. 21.
T. 13 N., R. 1 E.,
Secs. 24 and 25.
T. 13 N., R. 1½ E.,
Secs. 1, 11, 12, 13, 14, 24, 25.
T. 5 S., R. 10 E.,
Secs. 11, 15, 20, 21, 22, 23.

Some of the lands involve base floodplains. Excluding lands within the base floodplain from the exchange is not a practicable alternative.

The state lands to be acquired are within the following townships and sections in Yavapai County.

Gila and Salt River Meridian, Arizona

T. 9 N., R. 1 E.,
Sec. 13.
T. 9 N., R. 2 E.,
Secs. 5, 6, 7, 8, 17, 18, 19, 20, 30.
T. 9½ N., R. 2 E.,
Secs. 19, 29 30, 31, 32.
T. 10 N., R. 2 E.,
Secs. 5, 6, 7, 8, 18, 19, 30, 31.

The public land will be conveyed subject to the following terms and conditions:

1. A reservation to the United States for rights-of-way for ditches and canals under the Act of August 30, 1890;

2. Subject to: a) road rights-of-way A 4309, A 17061, A 21386 and A 21394; b) telephone line right-of-way A 22632, c) transmission line right-of-way AR 04207 and d) Pinal County floodplain regulations.

Detailed information concerning this exchange can be obtained from Phoenix District Office. For a period of forty-five (45) days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 W. Deer Valley Road, Phoenix, Arizona 85027. Any adverse comments will be evaluated by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: June 12, 1987.

Henri R. Bisson,

District Manager.

[FR Doc. 87-14293 Filed 6-23-87; 8:45 am]

BILLING CODE 4310-32-M

[NM-010-4212-20-RGRP]

Realty Action; Proposed Land Disposal in Rio Arriba County (Albuquerque District), NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action on proposed land disposal.

SUMMARY: This notice is to advise the public that the Albuquerque District, of the Bureau of Land Management (BLM), is proposing to dispose of approximately 11.75 acres of public land within the Village of Vallecitos within Rio Arriba County, State of New Mexico.

SUPPLEMENTARY INFORMATION: The BLM has determined that the acres of public land described below are suitable for disposal under the Color-of-Title Acts of 1928 (45 Stat. 1069), 1932 (47 Stat. 53; 43 U.S.C. 178), and Sales Under section 203 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1713 (1976).

New Mexico Principal Meridian

Vallecitos, New Mexico Public Land Disposal Block

Township 26 North, Range 8 East
Section 8: Lots 18, 19, 20, 21, 22, 23, 25, 26, 28, 29, 30, 31, 32, 33, 34, 35, 39, 40, 41, 42, 43, 46, 47, 48, 49, 50
Section 17: Lots 9, 11
Comprising approximately 11.75 acres.

Disposal of these lands is consistent with: (1) The approved Land Use Recommendations of the BLM's 1979 Rio Grande Management Framework Plan, (2) Their location as well as the physical characteristics and the private ownership of adjoining lands, make them difficult and uneconomical to manage as public lands, so disposal would best serve the public interest, (3) This Notice of Realty Action will be published once a week for three weeks in a newspaper of general circulation and will be sent to the New Mexico Congressional Delegation and the relevant congressional committees by BLM. The specific parcels of public land will be disposed of using the following "Tract Disposal Criteria" in descending order of priority:

1. *Color-of-Title.* Color-of-Title disposals will be made to any applicant within the disposal area who qualifies under the Color-of-Title Acts.

2. *Non-Competitive (Direct) Sale.* Public Lands within the disposal block will be sold without competition at Fair Market Value to those individuals who occupied the parcels before June 11, 1979 (the date land use plans were approved) but who do not qualify for title under one of the color-of-title acts.

The terms and conditions applicable to the disposal are:

1. The patents will contain a reservation to the United States for ditches and canals.

2. All disposals are for surface estate only. The patents will contain a reservation to the United States for all minerals.

3. Tracts which lie within the 100 year floodplain of the Rio Vallecitos will be subject to EO 11988 which precludes the seeking of compensation from the United States or its agencies in the event existing or future facilities on those tracts are damaged by flood.

4. All disposals will be made subject to prior existing rights.

Additional information pertaining to this disposal including the environmental documents are available for review at the Taos Resource Area Office, Plaza Montevideo, Cruz Alta Road, Taos, New Mexico 87571, or telephone (505) 758-8851. For a period of 45 days from the date of this notice, interested parties may submit written comments to the Taos Resource Area Manager. Any adverse comments will be evaluated by the New Mexico State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination.

In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: June 10, 1987.

L. Paul Applegate,

District Manager.

[FR Doc. 87-14315 Filed 6-23-87; 8:45 am]

BILLING CODE 4310-FB-M

[CO-940-07-4220-10; C-39289]

Withdrawal and Reservation of Lands; Colorado

June 16, 1987.

ACTION: Notice.

SUMMARY: The Department of Energy has filed an amendment to an existing withdrawal application for disposal sites for radioactive wastes pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, 92 Stat. 3021; 42 U.S.C. 7901. This amendment redescribes the Cheney Reservoir Site and deletes 20 acres from the original notice. The segregation imposed by the original notice has terminated and the lands have been opened. This notice identifies the lands in the application and has no segregative effect on the land areas described. The lands remain open to operation of the public land laws including the mining laws.

DATE: Comments or requests for hearing should be received on or before September 22, 1987.

ADDRESS: Correspondence should be addressed to the State Director, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, 303–236–1768.

By letter dated June 5, 1987, Department of Energy requested amendment of withdrawal C–39289. The notice, Colorado; Proposed Withdrawal; Opportunity for Public Hearing, published August 1, 1984, 49 FR 30801, as amended, is further amended as follows:

1. The following described 180 acres in Mesa County are deleted from the application:

Ute Principal Meridian

Cheney Reservoir Site

T. 3 S., R. 2 E.,
Sec. 11, S½S½NE¼, SE¼SE¼NW¼, E½NE¼SW¼, and N½SE¼;
Sec. 12, SW¼SW¼NW¼ and W½NW¼SW¼.

2. The following described 160 acres in Mesa County are added to the application.

Ute Principal Meridian

Cheney Reservoir Site

T. 3 S., R. 2 E.,
Sec. 13, SW¼NW¼NW¼;
Sec. 14, S½N½NE¼, S½NE¼, SE¼NE¼NW¼, and E½SE¼NW¼.

This amendment is effective on date of publication. All lands in the application continue to be open to operation of all of the public land laws, including the U.S. mining laws, subject to valid existing rights.

Any persons who desire to comment or be heard on the proposed withdrawal of those lands described in paragraph 2 should submit such comments or requests in writing to the Colorado State Director within 90 days from the date of this publication.

This application will continue to be processed in accordance with the original notice.

Richard D. Tate,

Acting Chief, Branch of Lands an Minerals Operations.

[FR Doc. 87–14316 Filed 6–23–87; 8:45 am]

BILLING CODE 4310–JB–M

Geological Survey

Aerial Photography Prices; Price Change

Notice is hereby given that effective July 1, 1987, the prices on aerial photographs reproduced by the Geological Survey (USGS) will be changed. The pricing realignment is needed to both recover costs and to make aerial photograph prices consistent with those for like products sold by the U.S. Department of Agriculture (USDA). The last price change for aerial photograph reproductions was in September 1981.

The following table of new prices was developed as a joint effort with USDA, and lists only those sizes and types of aerial photographs that are sold by both agencies. Any subsequent readjustment in prices of aerial photographs sold solely by the USGS will be based upon and related to the following prices.

OLD AND NEW PRICES FOR USGS AERIAL PHOTOGRAPHS

Size and type (approximate inches)	Old prices	New prices	
		*Contributor	*Non-contributor
9 x 9 paper print	$5.00	$3.00	$6.00
10x10 internegative	8.00	4.00	8.00
10x10 diapositive	8.00	10.00	15.00
20x20 paper print	20.00	11.00	18.00
30x30 paper print	25.00	18.00	27.00
38x38 paper print	35.00	25.00	33.00
Color			
9 x 9 paper print	$15.00	$8.00	$16.00
10x10 diapositive cut	25.00	12.00	24.00
10x10 roll film	12.50	6.00	12.00
20x20 paper print	35.00	30.00	45.00
30x30 paper print	50.00	45.00	58.00
38x38 paper print	70.00	50.00	65.00

*Non-contributor price is applied to the general public. Contributor price applies to a State, Federal, or other agency that has contributed toward acquisition of the photographs.

Further information is available from the following Geological Survey offices:

National Cartographic Information Center, 507 U.S. Geological Survey National Center, Reston, Virginia 22092

EROS Data Center, U.S. Geological Survey, Sioux Falls, South Dakota 57198.

Dated: June 17, 1987.

Lowell E. Starr,

Chief, National Mapping Division, U.S. Geological Survey.

[FR Doc. 87–14313 Filed 6–23–87; 8:45 am]

BILLING CODE 4310–31–M

National Park Service

Approval of Section 6(f)(3) Conversion, Seneca Creek State Park, Montgomery County, MD

Notice is hereby given that on June 18, 1987, the National Park Service (NPS), in accordance with 36 CFR Part 59 (51 FR 43180), approved the conversion of 22.196 acres of parkland in Seneca Creek State Park, Montgomery County, Maryland. This action was taken under section 6(f)(3) of the Land and Water Conservation Fund (L&WCF) Act of 1965, as amended (Pub. L. 88–578), and in accordance with the grantee's agreement to provide full replacement of the converted parkland with other properties of at least equal fair market value and equivalent usefulness. The acreage to be converted was assisted through the L&WCF under project numbers 24–000297, 24–00323D, and 24–000347.

In approving the subject conversion, the NPS has completed a Record of Decision (ROD) in which it also adopted the November 1986 Final Environmental Impact Statement prepared by the Federal Highway Administration, *et al.*, entitled *Great Seneca Highway from Middlebrook Road to Maryland Route 28, Montgomery County, Maryland* (Report number: FHWA–MD–EIS–83–02–F). The ROD is on file in the NPS Recreation Grants Divisions, Room 2211, 1100 L St., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Sam L. Hall or Mr. Michael P. Rogers, U.S. Department of the Interior, National Park Service, Recreation Grants Division (775), Washington, DC. 20013–7127 (Telephone: 202/343–3700).

Authority: Sec. 6, L&WCF Act of 1965 as amended: Pub. L. 88–578; 78 Stat. 897; 16 U.S.C. 4601–4 et. seq., 36 CFR Part 59 (51 FR 34180).

William Penn Mott, Jr.,

Director.

[FR Doc. 87–14490 Filed 6–23–87; 9:50 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-143]

Issuance of Modified General Exclusion Order; Certain Amorphous Metal Alloys and Amorphous Metal Articles

AGENCY: U.S. International Trade Commission.

ACTION: Modification of general exclusion order issued in the above-captioned investigation.

SUMMARY: Notice is hereby given that the Commission has determined to modify the outstanding exclusion order issued in October 1984 in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Jean H. Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E. Street, NW., Washington, DC 20436, telephone 202-523-1693. Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202-724-0002.

SUPPLEMENTARY INFORMATION: This investigation was originally conducted in 1983 and 1984 to determine whether there was a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) by the importation or sale of certain amorphous metal alloys and amorphous metal articles from Japan and the Federal Republic of Germany. 48 FR 15963 (Apr. 13, 1983); 48 FR 43108 (Sept. 21, 1983); 49 FR 4047 (Feb. 1, 1984). After finding a violation in the importation of the accused articles, the Commission issued a general exclusion order which prohibited the entry of amorphous metal articles cast abroad by the processes claimed in claims 1, 2, 3, 5, 8, or 12 of U.S. Letters Patent 4,221,257 (the '257 patent) owned by complainant Allied Corporation (Allied). *Certain Amorphous Metal Alloys and Amorphous Metal Articles*, Investigation No. 337-TA-143, USITC Publication 1664 (Nov. 1984); 49 FR 42083 (Oct. 24, 19840.

Subsequently, the Commission instituted exclusion order modification proceedings to determine whether the order should be modified, vacated, or left unchanged. Commission Action and Order of July 26, 1985, 50 FR 31260 (Aug. 1, 1985); 19 CFR 211.57. The Commission ordered that the modification proceedings be presided over by a Commission administrative law judge (ALJ) who would conduct adversary proceedings to the extent necessary to take evidence, make findings of fact and conclusions of law, and issue a recommended determination (RD) as to: (1) Whether there are effective and feasible means of enforcing the order without excluding products made by non-infringing processes; (2) what those means are; and (3) the disposition of the order, i.e., whether the order should be modified, limited in scope, vacated, or left unchanged. U.S. Customs Service (Customs) was encouraged to participate in the modification proceedings.

The ALJ's RD was issued on March 3, 1986. The following parties filed exceptions to the RD on March 28, 1986: Allied, Hitachi Metals Limited and Hitachi Metals International, the Commission investigative attorney, and Customs. On June 5, the Commission determined to remand the RD to the ALJ to determine if new evidence submitted by Allied shoud be admitted and, if admitted, whether the evidence would change the ALJ's recommendation. On August14, 1986, the ALJ issued additional findings concerning an initial advisory opinion issued concurrently with the RD, but made no changes in the RD.

Having considered the ALJ's RD and the record in this proceeding, the Commission determined to modify the outstanding exclusion order issued in the above-captioned investigation. This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rule § 211.57 (19 CFR 211.57).

Copies of the Commission's Action and Order, its Memorandum Opinion in support thereof, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161.

Issued: June 17, 1987.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87-14333 Filed 6-23-87; 8:45 am]

BILLING CODE 7020-02-M

[Inv. No. 337-TA-261]

Commission Decision Not to Review Initial Determination Amending Complaint and Investigation; Certain Ink Jet Printers Employing Solid Ink

AGENCY: U.S. International Trade Commission.

ACTION: Nonreview of an initial determination amending the complaint and notice of investigation to add allegations of infringement of two patents.

FOR FURTHER INFORMATION CONTACT: Charles Nalls, Esq., Office of the General Counsel, U.S. International Trade Commission, tel. 202-523-1626.

AUTHORITY: Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and § 210.53 of the Commission's Rules of Practice and Procedure (19 CFR 210.53).

SUPPLEMENTARY INFORMATION: On March 23, 1987 complainants E/D Venture, Imaging Solutions, Inc., and Dataproducts Corp. filed a motion to amend the complaint to include an allegation of infringement of U.S. Letters Patent 4,636,803. On April 14, 1987, complainants filed a motion (Motion No. 261-13) to further amend the complaint to add an allegation of infringement of U.S. Letters Patent 4,658,274. Respondent Howtek, Inc. opposed both motions. The presiding administrative law judge (ALJ) issued an ID (Order No. 8) on May 11, 1987, granting the motions for amendment of the complaint. No petitions for review or comments from Government agencies were received.

Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161.

Hearing-impaired individuals are advised that information concerning this investigation can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Issued: June 16, 1987.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87-14334 Filed 6-23-87; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-377 (Preliminary)]

Internal Combustion Engine Fork-Lift Trucks From Japan

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Japan of

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

internal combustion engine fork-left trucks, provided for in item 692.40 of the Tariff Schedules of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).[2]

Background

On April 22, 1987, a petition was filed with the Commission and the Department of Commerce by Hyster Company of Portland, OR, a U.S. producer of internal combustion engine fork-lift trucks, the Independent Lift Truck Builders Union, the International Association of Machinists and Aerospace Workers, the International Union, Allied Industrial Workers of America (AFL–CIO), and the United Shop and Service Employees alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of internal combustion engine fork-lift trucks from Japan. Accordingly, effective April 22, 1987, the Commission instituted preliminary antidumping investigation No. 731–TA–377 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 30, 1987 (52 FR 15781). The conference was held in Washington, DC, on May 14, 1987, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on June 8, 1987. The views of the Commission are contained in USITC Publication 1985 (June 1987), entitled "Internal Combustion Engine Fork-Lift Truck from Japan: Determination of the Commission in Investigation No. 731–TA–377 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: June 19, 1987.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–14335 Filed 6–23–87; 8:45 am]

BILLING CODE 7020–02–M

[2] For purposes of this investigation, "internal combustion engine fork-left trucks" include both assembled, not assembled, and less than complete, finished and not finished, operator-riding fork-left trucks powered by gasoline, propane, or diesel fuel internal combustion engines of off-the-highway types used in factories, warehouses, or transportation terminals for short-distance transport, towing, or handling of articles. "Less than complete" fork-lift trucks are defined as imports which include a frame by itself or a frame assembled with one or more component parts. The Department of Commerce has stated that the frame by itself is the identifying feature and principal component part of the product, and is solely dedicated for the manufacture of a complete internal combustion, industrial fork-lift truck.

[Investigation No. 731–TA–347 (Final)]

Certain Malleable Cast-Iron Pipe Fittings From Japan

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is materially injured by reason of imports from Japan of certain malleable cast-iron pipe fittings, provided for in items 610.70 and 610.74 of the Tariff Schedules of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective February 13, 1987, following a preliminary determination by the Department of Commerce that imports of certain malleable cast-iron pipe fittings from Japan were being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. 1673). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 4, 1987 (52 FR 6631). The hearing was held in Washington, DC, on April 28, 1987, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on June 15, 1987. The views of the Commission are contained in USITC Publication 1987 (June 1987), entitled "Certain Malleable Cast-Iron Pipe Fittings from Japan: Determination of the Commission in Investigation No. 731–TA–347 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: June 16, 1987.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–14336 Filed 6–23–87; 8:45am]

BILLING CODE 7020–02–M

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure [19 CFR 207.2(i)].

[Investigation No. 337–TA–110]

Termination With Prejudice of Advisory Opinion Proceeding; Certain Methods for Extruding Plastic Tubing

AGENCY: U.S. International Trade Commission.

ACTION: Termination with prejudice of advisory opinion proceeding.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to terminate with prejudice the advisory opinion proceeding instituted on April 4, 1986 (51 FR 12219, April 9, 1986) under the authority of sections 335 and 337 of the Tariff Act of 1930 (19 U.S.C. 1335 and 1337) and 19 U.S.C. 1337a, relating to the general exclusion order issued in September 1982 at the conclusion of the above-captioned investigation. A letter was filed with the Commission on March 4, 1986, on behalf of Meditech International Co. (Meditech), 4105 Holly Street, Unit 1, Denver, Colorado 80216, requesting the Commission to issue an advisory opinion pursuant to 19 CFR 211.54(b) regarding whether certain reclosable plastic bags that Meditech seeks to import into the United States are covered by the exclusion order issued on September 2, 1982, in the investigation.

FOR FURTHER INFORMATION CONTACT: Paul R. Bardos, Esq., Office of General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0350.

SUPPLEMENTARY INFORMATION: On September 2, 1982, the Commission issued a general exclusion order covering reclosable plastic bags manufactured according to a process which, if practiced in the United States, would infringe the claims of one or more of three U.S. process patents. Two of the patents have since expired, leaving as the basis for the Commission's exlusion order only U.S. Letters Patent Re. 28,959 (the '959 patent).

Meditech's letter requested that the Commission issue an advisory opinion stating that certain reclosable plastic bags which Meditech seeks to import are not covered by the Commission's

exclusion order. Meditech's request was the second one it has filed in this investigation, the first having been filed on September 13, 1985, and withdrawn with prejudice on March 4, 1986. On January 9, 1987, the Commission issued an order for Meditech to show cause why the advisory opinion proceeding should not be terminated on the ground that Meditech had not established that it or its foreign suppliers practice a process for manufacturing plastic tubing for making reclosable plastic bags which is not covered by the exclusion order issued in the investigation. On February 9, 1987, counsel for Meditech responded to the order to show cause.

On the basis of Meditech's response of February 9, 1987, and the other documents filed in connection with this matter, the Commission has determined to terminate with prejudice the advisory opinion proceeding on the ground that Meditech has not established that it or its foreign suppliers practice a process for manufacturing plastic tubing for making reclosable plastic bags which is not covered by the exclusion order issued in the investigation.

Copies of all nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Issued: June 16, 1987.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–14337 Filed 6–23–87; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Bureau of Justice Assistance

Narcotics Control Discretionary Grant Program

AGENCY: Bureau of Justice Assistance, Department of Justice.

ACTION: Final notice.

SUMMARY: The Bureau of Justice Assistance is republishing one program announcement under the Narcotics Control Discretionary Grant Program of the "Anti-Drug Abuse Act of 1986" [SUBTITLE K-STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE] and is requesting proposals for this program. This program is being reissued because no eligible applicants responded to the previous publication.

EFFECTIVE DATE: June 24, 1987.

FOR FURTHER INFORMATION CONTACT: For general information about this program contact the person indicated in the text.

ADDRESS: All final applications (original plus two copies) should be addressed to the Bureau of Justice Assistance, 633 Indiana Avenue NW., Washington, DC 20531.

AUTHORITY: 1302 (4).

PROGRAM TITLE: Technical Assistance to Corrections Agencies.

BACKGROUND: State departments of corrections and local jails and community corrections agencies will be implementing a wide range of drug screening, drug treatment and rehabilitation projects with state Block Grant funds. Many of these new or expanded drug-related projects will have a significant impact on the operations of correctional agencies, and there will be substantial need for technical assistance and training to support these projects.

GOAL/OBJECTIVE: This Technical Assistance project is designed to provide a range of site-specific technical assistance and training in support of new Block Grant and non-Block Grant projects in correctional institutions and in community corrections agencies. In addition, it will support BJA-initiated special projects.

PROGRAM DESCRIPTION: One technical assistance grant will be awarded to a national consulting firm or agency to implement the technical assistance and training activities. It is projected that 6–8 regional or state seminars will be implemented on special topics related to drugs, such as special handling of drug dealers, eliminating drugs in the institution, model personnel and job descriptions, etc. It is projected that up to 60 on-site technical assistance assignments will be completed, covering drug treatment, organization, management, and screening instruments.

Implementation will be primarily on broker basis, i.e., maximum use will be made of experienced administrators, practitioners, and consultants. Twenty-five percent (25%) of grant funds should be earmarked for special projects at the direction of BJA.

AWARD AMOUNT: $350,000 is earmarked for this project.

ELIGIBILITY CRITERIA: One eighteen-month national scope technical assistance cooperative agreement will be awarded on a competitive basis. Interested firms or non-profit agencies should complete a Federal SF 424 application to include complete budget, staff capabilities, experience with technical assistance and training for corrections (including drug treatment), proposed method of consultant networking, and quality control for technical assistance assignments.

An independent panel will screen and rank applications based on the following criteria: Expertise of staff in conducting technical assistance and training for corrections agencies, including expertise in drug treatment in the corrections setting; quality of performance workplan; and proposed use of funds to achieve maximum delivery of assistance.

DUE DATES: Applications are due at BJA by July 20, 1987. Project start-up is proposed for late August, 1987.

PROGRAM CONTACT: The contact for this program is Nicholas Demos, Program Manager for Corrections, 202/272–4605.

George A. Luciano,

Director.

[FR Doc. 87–14295 Filed 6–23–87; 8:45 am]

BILLING CODE 4410–18–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Proposed Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archieves of the United States. Schedules also authorize agencies after a specified period to dispose or records lacking administrative, legal, research, or other value. Notice is published for records schedules that: (1) Propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 USC 3303a(a).

DATE: Requests for copies must be received in writing on or before August 10, 1987. Once the appraisal of the

records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESS: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archieves and Records Administation, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series or records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights and interests of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending Approval

1. Department of Commerce, International Trade Administration (N1–151–87–11). Records, including clippings, relating to international highway construction and maintenance.

2. Defense Logistics Agency (N1–361–87–2). Records relating to audits, reviews, and surveys.

3. Environmental Protection Agency, Office of Research and Development (NC1–412–85–23). Research and development laboratory records.

4. General Services Administration, Federal Supply Service (N1–137–87–1). Records relating to the transportation program.

5. Department of Housing and Urban Development (N1–207–87–4). Videotapes relating to HUD personnel and public affairs programs.

6. National Archives and Records Administration, Office of Records Administration (N1–GRS–87–14). Administrative program records of offices of small and disadvantaged business utilization (OSDBU) in major federal agencies.

7. National Archives and Records Administration, Office of Records Administration (N1–GRS–87–15). Proposed addition to the General Records Schedule for Information Resources Management Triennial Review Files.

8. Department of the Treasury, Internal Revenue Service (N1–58–87–4). Records relating to the enrollment of persons to practice before the Internal Revenue Service.

9. Veterans' Administration, Department of Medicine and Surgery (N1–15–87–5). CHAMPVA Sponsor Record Folders. Inactive administrative applications for medical benefits for dependents or survivors.

10. Veterans' Administration, Office of Budget and Finance (Controller), (N1–15–87–6). Microfilm copies of Centralized Accounts Receivable records.

Dated: June 18, 1987.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 87–14358 Filed 6–23–87; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

Meetings of the Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meeting(s).

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meeting(s) of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, DC 20506:

FOR FURTHER INFORMATION CONTACT: Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/786–0322.

SUPPLEMENTARY INFORMATION: The proposed meeting(s) are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because they proposed meeting(s) will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or (3) information the disclosure of which would significantly frustrate implementation of proposed agency action, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meeting(s) dated January 15, 1978, I have determined that these meeting(s) will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

1. *Date:* July 20–21, 1987
Time: 8:30 a.m. to 5:00 p.m.
Room: M–14
Program: This meeting will review applications in Humanities Instruction in Elementary and Secondary Schools, submitted to the Division of Education Programs, for projects beginning after November 30, 1987.

2. *Date:* July 27–28, 1987
Time: 8:30 a.m. to 5:00 p.m.
Room: M–14
Program: This meeting will review applications in Humanities Instruction in Elementary and Secondary Schools, submitted to the Division of Education Programs, for projects beginning after November 30, 1987.

3. *Date:* July 13, 1987
Time: 8:30 a.m. to 5:00 p.m.
Room: 415
Program: This meeting will review applications submitted for Museums & Historical Organizations, submitted to the Office of General Programs, for projects beginning after January 1, 1988.

4. *Date:* July 23–24, 1987
Time: 8:30 a.m. to 5:00 p.m.
Room: 415

Program: This meeting will review applications submitted for Museums & Historical Organizations, submitted to the Office of General Programs, for projects beginning after January 1, 1988.

5. Date: July 30–31, 1987
Time: 8:30 a.m. to 5:00 p.m.
Room: 415
Program: This meeting will review applications submitted for Museums & Historical Organizations, submitted to the Office of General Programs, for projects beginning after January 1, 1988.

6. *Date:* July 16–17, 1987
Time: 8:30 a.m. to 5:00 p.m.
Room: 415
Program: This meeting will review applications submitted for Museums & Historical Organizations, submitted to the Office of General Programs, for projects beginning after January 1, 1988.

Stephen J. McCleary,
Advisory Committee Management Officer.
[FR Doc. 87–14319 Filed 6–23–87; 8:45 am]
BILLING CODE 7536-01-M

OFFICE OF MANAGEMENT AND BUDGET

Review of Circular A–110, "Uniform Administrative Requirements for Grants and Agreements With Universities, Hospitals and Other Nonprofit Organizations"

AGENCY: Financial Management Division, Associate Director for Management, Office of Management and Budget.

ACTION: Notice of Review of Circular A–110.

SUMMARY: In November 1983, a 20-agency task force under the President's Council on Management Improvement (PCMI), chaired by the Office of Management and Budget (OMB), was established to explore streamlining grants management and review Circular A–102, "Uniform Administrative Requirements for Grants to State and Local Governments." On March 12, 1987, the President directed all affected departments and agencies to simultaneously propose and subsequently issue a common regulation that adopts governmentwide terms and conditions for grants to State and local governments. The PCMI has recommended that the Department of Health and Human Services (HHS) and OMB jointly chair a follow-on effort to similarly review and issue a common rule and revised circular for non-governmental grantees covered by Circular A–110, "Uniform Administrative Requirements for Grants and Agreements with Universities, Hospitals and Nonprofit Organizations."

A–110 Review Plan

OMB and HHS will co-chair an interagency task force to draft two products for financial assistance awards to universities, hospitals and other nonprofit organizations:

—An OMB circular containing guidance to Federal agencies on their internal grants management processes
—A "common rule" (i.e., an identical regulation issued simultaneously by all Federal agencies) that contains uniform terms and conditions for grantees.

The task force will review the current requirements of Circular A–110, compare them with the proposed Circular A–102 and governmentwide common rule to be published in the **Federal Register** June 9, 1987, determine the need for change to restore uniformity, and propose a revised Circular A–110 and common rule for public comment. The effort will begin immediately and dovetail with the remaining steps in the revision of Circular A–102, which will conclude with the publication of a final common rule and revised circular in March 1988.

Public Comment

OMB and HHS would like the public to participate in this process as substantively and as early as possible. Consequently, prior to drafting proposed language, this Notice is being published to solicit public suggestions on issues important to businesslike management of Federal assistance to universities, hospitals and other nonprofit organizations. Particular attention should be given to identify ways to improve current policy, to propose additional issues for coverage in the revised circular or common rule, to document the costs and benefits (in terms of dollars and program effectiveness) of existing or proposed policies, and to provide language for how policies should be expressed in the proposed governmentwide common regulation.

ADDRESS FOR COMMENTS: Written comments should be submitted to: Jonathan D. Breul, Financial Management Division, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jonathan D. Breul, OMB, (202) 395–3050; or Joel B. Feinglass, HHS, (202) 245–7565.

Gerald R. Riso,
Associate Director for Management.
[FR Doc. 87–14368 Filed 6–23–87; 8:45 am]
BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency clearance officer: Kenneth A. Fogash, (202) 272–2142
Upon written request, copy available from: Securities and Exchange Commission Office of Consumer Affairs and Information Services, 450 5th Street, NW., Washington, DC 20549

New

Rule 45 [17 CFR 250.45]

[File No. 270–164]

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for OMB approval a proposed amendment to Rule 45 under the Public Utility Holding Company Act of 1935. Rule 45 provides that registered holding companies and their subsidiaries shall not make loans or extend credit to companies in the same system without prior Commission approval, except in certain cases. The proposed amendment, if adopted, would create a new exception for certain routine agreements whereby a parent company guarantees the obligations of its subsidiary. Contingent obligations assumed by a parent company under such agreements would be reported annually in Item 3 of Form U5S.

Comments should be submitted to OMB Desk Officer: Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503.

Jonathan G. Katz,
Secretary.
June 18, 1987.
[FR Doc. 87–14330 Filed 6–23–87; 8:45 am]
BILLING CODE 8010-01-M

[File No. 500-1]

Determination; Order of Suspension of Trading; Jocom, Inc.

June 19, 1987.

It appears to the Securities and Exchange Commission that there is a lack of adequate current information concerning the securities of Jocom, Inc. ("Jocom") and that questions have been raised about the adequacy and accuracy of publicly disseminated information concerning, among other things, Jocom's financial condition, assets, business operations, securities transactions, and other matters, and the Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of Jocom.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in Jocom, over-the-counter or otherwise, is suspended for the period from 10:00 a.m., June 19, 1987, through 10:00 a.m. (EDT) on June 29, 1987.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-14329 Filed 6-23-87; 8:45am]

BILLING CODE 8010-01-M

[Release No. 35-24415]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

June 18, 1987.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The applications(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by July 13, 1987 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

CSW Credit, Inc.; Central and South West Corporation (70-7372)

Central and South West Corporation ("CSW"), a registered holding company, and its factoring subsidiary, CSW Credit, Inc. ("CSW Credit"), 2121 San Jacinto Street, Dallas, Texas 75201, have filed an application-declaration pursuant to sections 6, 7, 9(a), 10 and 12(b) of the Act and Rule 45 thereunder.

By order dated July 19, 1985 (HCAR No. 23767), the Commission authorized CSW to organize and acquire CSW Credit, a corporation formed for the purpose of factoring accounts receivable of the CSW electric utility companies. CSW was authorized to make equity investments in CSW Credit in an amount up to $80 million, and CSW Credit was authorized to borrow up to $320 million, through December 31, 1986. By order dated July 31, 1986 (HCAR No. 24157), the Commission authorized CSW Credit to expand its factoring activities to include the purchase of receivables of electric utilities not associated with the CSW system, subject to the condition that the average amount of nonassociate company receivable purchased by CSW Credit during any twelve-month period would remain below the corresponding amount of associate company receivables. To finance these expanded activities through December 31, 1988, CSW was authorized to make additional equity investments of up to $40 million in CSW Credit, through either capital contributions or the acquisition of common stock of CSW Credit; and CSW Credit was authorized to sell to CSW up to $40 million of its common stock and to borrow up to an additional $160 million pursuant to bank lines of credit or through the issuance of commercial paper. CSW and CSW Credit now request the removal of the limitation imposed by the 1986 order upon the factoring by CSW Credit of receivable of nonassociate electric utilities. CSW Credit seeks authority to borrow through December 31, 1989 an additional $750 million, pursuant to bank lines of credit or through the issuance of commercial paper, for a total of $910 million. CSW Credit also proposes to issue, and CSW proposes to buy, an additional $150 million of common stock. Lastly, CSW seeks approval of equity investments of up to $190 million in CSW Credit through capital contributions or purchases of common stock.

Mississippi Power Company (70-7375)

Mississippi Power Company ("Mississippi"), 2992 West Beach, Gulfport, Mississippi 39501, a subsidiary of The Southern Company, a registered holding company ("Southern"), has filed an application pursuant to sections 2(a)(8)(A), 9(a), 10 and 13(b) of the Act and Rule 87(a)(3) thereunder.

Mississippi proposes to acquire ten percent of the outstanding voting common stock and ten percent of the issued and outstanding preferred stock of Water Furnace International ("Manufacturer"), a closely held Indiana corporation, as an initial royalty payment for Mississippi's grant to Manufacturer of a license to utilize for up to 34 years Letters Patent held by Mississippi on a refrigerant circuit for triple integrated heat pump systems and for certain other services to be provided by Mississippi. Mississippi further proposes to acquire an option to acquire up to an additional 2½ percent of Manufacturer's then outstanding common stock during a three-year period, subject to an option in Manufacturer to reacquire such 2½ percent of its common stock for $250,000 during the same three-year period.

During the initial 17 years term of its license agreement with Mississippi, Manufacturer will pay Mississippi a 4 percent royalty on the gross dollar volume of sales of units incorporating Mississippi's patented technology. If Mississippi renews the patent, the license agreement will also be automatically renewed for an additional 17 years, and the semi-annual royalty will be reduced to 2% of the gross dollar volume.

Mississippi further proposes that the Commission declare that Manufacturer is not a subsidiary company of Mississippi or of Southern under section 2(a)(8)(A) of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-14332 Filed 6-23-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24603; File No. SR-CBOE-87-25]

Self-Regulatory Organizations; Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Position Limits

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) ("Act"), notice is hereby given that on May 27, 1987, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

The proposed rule change provides for a one year pilot program for public customers to apply for a "hedge exemption" from broad-based index option position limits. Upon approval by the Exchange, positions in broad-based index options traded on the Exchange (long puts and/or short calls, combinations thereof, or other economically equivalent positions approved in advance by the Exchange) which are hedged against long portfolios of stock held by a public customer will be exempt from the position limit rule. A qualified stock portfolio must at all times be composed of net long positions in common stocks in at least four industry groups and contain at least 20 stocks, none of which accounts for more than 15% of the value of the portfolio. The size of the long portfolio will take into account stock index futures positions. The maximum size of the exempt position is set at 75,000 contracts or in an amount not exceeding the unhedged value of the qualified stock portfolio, whichever is less. The unhedged value is determined by totalling the values of the net long positions for each of the stocks of the long portfolio and subtracting the value of any short calls and long puts in broad-based index options, any short positions in stock index futures, and any economically equivalent position in stock index options or futures. The proposed rule requires the hedged position to be held in an account of a member of the Exchange, which account must comply with all rules and regulations of the Exchange. The exemption may not be used for arbitrage in stock baskets and index options. The customer will commit to promptly provide all pertinent information concerning stock holdings and related stock futures positions to the Exchange. The customer will also commit to orderly liquidation of positions at all times, and prompt liquidation of options positions rendered excessive by a decrease in the size of the stock portfolio. Any violation of the exemption provisions may result in loss of the exemption.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The Exchange herein proposes a one year pilot program of a public customer hedge exemption for broad-based index options. The purpose of the proposal is to provide public customers who wish to hedge large stock portfolios relief from existing position limits.

Under the current position limit of 25,000 contracts in OEX,[1] for example, if we assume OEX's value is 270, a position at the limit would have an index value of $675 million. Yet, many portfolio managers manage stock portfolios valued far in excess of that size. Those managers of larger size portfolios are unable to use OEX to hedge effectively such portfolios. Rather, they are forced to use index futures contracts, where larger position limits and various exemptions to position limits exist.

Several terms are more fully discussed herein. The exemption is limited to public customers, i.e., those customers whose trades would be eligible for the book under Rule 7.4. That is, this exemption is designed for customer portfolio management. In part (e) of the text, the exemption is limited to long puts, short calls, a combination thereof, "or such equivalent positions as are approved in advance by the Exchange . . ." The Exchange does not know what equivalent positions might be proposed by applicants. However, the Exchange can expect that such positions as long put spreads or short call spreads might be equivalent positions. Such spreads might appropriately hedge long stock protfolio risk, while containing in part short puts or long calls.

Part (c) of the text requires that approved hedge accounts be carried at member firms. That does not, or course, limit a customer's selection of a firm, whether or not a member, to handle the account from day to day, including execution and advisory services, but it does require that the positions clear into an account carried at a member firm. This will assure that the Exchange has the ability to conduct adequate surveillance of exempt positions.

The Exchange believes that the proposed rule change is a viable approach to allowing more effective hedging of large stock portfolios. The Exchange also believes that this proposal will increase the depth and liquidity of index option trading. The Exchange is hopeful that the one year pilot will answer questions concerning the adequacy of the scope of relief and effects of this relief, if any, on the market. The proposal is consistent with the provisions of the Act and, in particular, section 6(b)(5), in that the proposal is designed to perfect the mechanism for a free and open market, to enhance the ability of investors to use options for investment purposes, and to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such

[1] *See* Securities Exchange Act Release No. 24566 (June 5, 1987) (Order approving proposed rule changes filed by the CBOE and American Stock Exchange to increase position limits for broadbased index options from 15,000 contracts (10,000 for the Amex's Major Market Index ["XMI"]) to 25,000 contracts (17,000 for the XMI) with no more than 15,000 contracts (10,000 for the XMI) to be held in the near-term, expiring month.

longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20449. Copies of the submissioin, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by July 15, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 17, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-14351 Filed 6-23-87; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

June 18, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stock:

The Walt Disney Company [Delaware]
Common Stock, $0.10 Par Value [File No. 7-0231]

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 10, 1987 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-14331 Filed 6-23-87; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area # 2274 Amendment # 2]

Maine; Declaration of Disaster Loan Area

The above-numbered Declaration (52 FR 12278), as amended (52 FR 13898), is hereby further amended in accordance with the Notice of Amendment to the President's declaration, dated April 16, 1987, to include the Counties of Cumberland, Hancock, Knox, Lincoln, Sagadahoc, and Waldo in the State of Maine because of damage from severe storms and flooding beginning on or about March 30, 1987. All other information remains the same; i.e., the termination date for filing applications for physical damage is the close of business on June 8, 1987, and for economic injury until the close of business on January 11, 1988.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: April 21, 1987.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 87-14366 Filed 6-23-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Receipt of Noise Compatibility Program and Request for Review; Great Falls International Airport, Great Falls, MT

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by Great Falls International Airport (GTF) under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR Part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for GTF under Part 150 in conjunction with the noise exposure maps, and that this program will be approved or disapproved on or before December 6, 1987.

DATES: The effective date of the FAA's determination of the GTF noise exposure maps and of the start of its review of the associated noise compatibility program is June 9, 1987.

Comments: The public comment period ends June 30, 1987.

FOR FURTHER INFORMATION CONTACT: Dennis Ossenkop, FAA, Airports Division, ANM-611, 17900 Pacific Hwy S., C-68966, Seattle, WA 98168.

Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps for GTF are in compliance with applicable requirements of Part 150, effective June 9, 1987. Furher, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before December 6, 1987. This notice also announces the availability of this parogram for public review and comment.

Under section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts noncompatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. The Act requires such maps to be developed in

consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted a noise exposure map that has been found by FAA to be in compliance with the requirements of Federal Aviation Regulation (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

GTF submitted to the FAA noise exposure maps, descriptions, and other documentation which were produced during an airport Noise Compatibility Study. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by GTF. The specific maps under consideration are Exhibits 7 and 8 in the submission. The FAA has determined that these maps for GTF are in compliance with applicable requirements. This determination is effective on June 9, 1987. FAA's determination on an airport operator's noise exposure maps is limited to the determination that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on noise exposure maps submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the maps depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for GTF, also effective on June 9, 1987. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before December 6, 1987.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, Independence Avenue, SW., Room 615, Washington, DC

Federal Aviation Administration, Airports Division, ANM-600, 17900 Pacific Hwy S., C-68966, Seattle, Washington 98168

Great Falls International Airport, Great Falls, Montana.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Seattle, Washington, June 9, 1987.

Cecil C. Wagner,

Acting Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 87-14281 Filed 6-23-87; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Dennis, MA, et al.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared of a proposed highway project in Dennis, Harwich, Brewster, Orleans and Eastham Massachusetts.

FOR FURTHER INFORMATION CONTACT:

Gabe Brazao, FHWA, 55 Broadway—10th Floor, Cambridge, Massachusetts 02142.

Frank Bracaglia, Assistant Director for Systems Planning and Development, Massachusetts Department of Public Works, 10 Park Plaza, Boston, Massachusetts 02116-3973.

SUPPLEMENTARY INFORMATION: Existing Route 6 between Dennis and Orleans consists of 12.8 miles of undivided two-lane roadway. The existing facility does not have breakdown lanes on either side and the opposing traffic is separated by a double yellow center line. The road is posted for a 50 MPH speed limit. In recent years there have been a number of accidents due to cars crossing the center line and colliding head-on with other cars. The accidents have resulted in fatalities and severe injuries.

Yearly traffic volumes for the roadway for the period 1980 to 1985 have increased from 38% at the Orleans/Eastham rotary to 64% at the two-lane transition in Dennis. The roadway is already over capacity during peak hour in the westerly 6.4 miles and will be over capacity during the peak hour along the remaining 6.4 miles by the year 1991 according to current traffic growth rates.

The proposed project would provide a second roadway eastbound separated from the existing roadway by a median to eliminate cross-over accidents. The present roadway would become two lanes westbound only with a breakdown lane added. The existing right-of-way is wide enough to accommodate this roadway except that at certain interchange ramps, additional land may be necessary. A new interchange at Freemans Way in Brewster shall be part

of the project. Two partial build alternatives, a safety improvement alternative and an No-Build alternative shall also be considered. The highway corridor passes through Dennis, Harwich, Brewster, and Orleans ending at the Orleans/Eastham Town Line.

Existing Route 6 West of this section is a four lane divided highway from the Sagamore Bridge in Bourne to the transition east of Exit 9, Route 134 in Dennis. East of this section existing Route 6 is a four lane undivided highway in Eastham.

The possible alternatives include:

I. Add eastbound barrel to Exit 13, Orleans/Eastham Rotary, consideration of interchange improvements and upgrading westbound roadway with shoulders.
II. Add eastbound barrel to Exit 12, with improvements similar to Alt. 1. Improve existing roadway between Exists 12 & 13 by adding breakdown lanes, Jersey Median barrier and considering additional westbound lane.
III. Add eastbound barrel to Exit 11 with required interchange improvements, make transition east of Exit 11.
IV. Safety Improvements.
V. No-Build.

All build alternatives will include a new interchange at Freemans Way, a pedestrian/bicycle crossing between Exists 12 & 13, and a Park-and-Ride facility in the area of Exit 12.

A scoping meeting is scheduled to be held on July 1, 1987, 10:00 A.M. Eastham Town Hall Auditorium Route 6 Eastham, Massachusetts 02642.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of Executive Order 12372 regarding State and local clearinghouse review of Federal and federal assisted programs and projects apply to this program)

Date of issuance: June 16, 1987.

A.R. Churchill,

District Engineer, Cambridge, Massachusetts.

[FR Doc. 87-14290 Filed 6-23-87; 8:45 am]

BILLING CODE 4910-22-M

Commercial Motor Vehicle Safety Regulatory Review Panel; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FHWA announces that the Commercial Motor Vehicle Safety Regulatory Review Panel, will hold a meeting on July 28–30, 1987, beginning at 9 a.m., in Washington, DC at the Department of Transportation's Headquarters Building, 400 Seventh Street, SW., Washington, DC, 20590, Room 4234. The meeting is open to the public.

The agenda includes a review of DYNAMAC's "first tier analysis," which is a determination whether states' regulations are equivalent to, or more or less stringent than, their counterpart Federal Motor Carrier Safety Regulations.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph S. Toole, Executive Director, Commercial Motor Vehicle Safety Regulatory Review Panel, Federal Highway Administration, HOA-1, Room 4218, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-2238. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

Robert E. Farris,

Deputy Federal Highway Administrator.

June 18, 1987.

[FR Doc. 87-14367 Filed 6-23-87; 8:45 am]

BILLING CODE 4910-22-M

Urban Mass Transportation Administration

Applicability of Buy America Requirements to Tires Manufactured in Canada; Decision

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of decision.

SUMMARY: On May 19, 1986, UMTA issued an opinion to Firestone Tire and Rubber Company which provided that the "Buy America" requirements of the Surface Transportation Assistance Act of 1982 did not apply to Firestone tires manufactured in Canada since at least two of the components of the tires were exempted from these requirements. Goodyear Tire and Rubber Company challenged UMTA's decision by arguing that the "Buy America" provisions required that tires be "produced in the United States." In a decision dated May 20, 1987, UMTA reversed its earlier decision by finding that the "Buy America" requirements do apply to tires produced in Canada and that these tires cannot be categorized as complying with the applicable "Buy America" requirements.

FOR FURTHER INFORMATION CONTACT: Edward J. Gill, Jr., Office of the Chief Counsel, Room 9228, 400 Seventh Street, SW., Washington, DC 20590. (202) 366-4063.

SUPPLEMENTARY INFORMATION:

UMTA Decision—May 19, 1986

UMTA first determined that a tire is a "manufactured product" for purposes of applicability of the "Buy America" requirements. Once it was determined that a tire is a "manufactured product" for purposes of "Buy America" applicability, the next question that UMTA addressed was whether a general waiver has been granted for tires. Appendix A to § 661.7 of the regulations provides that "[A]ll waivers published in 41 CFR 12-6.105 which establish excepted articles, materials, and supplies for the Buy American Act of 1933 (41 U.S.C. 10a-d) are incorporated by reference under the provisions of § 661.7(b) [public interest] and (c) [non-availability]." Two of the excepted items listed in 41 CFR 12-6.105 are rubber and petroleum products. Section 12-6.105 further provides that any excepted items may be regarded as being of domestic origin for purposes of determining origin.

Hence, it was UMTA's position that, since rubber tires are "manufactured products" consisting mainly of rubber and petroleum, tires are granted the waiver set forth in Appendix A to 49 CFR 661.7. Since the two components of the tire are excepted materials, UMTA concluded that the tire itself can be treated as though it were an excepted item.

Goodyear Position

Goodyear's position was that UMTA erred in concluding that tires are exempt from "Buy America" coverage. While Goodyear conceded that the listing in 41 CFR 12-6.105 includes rubber and petroleum products, they argued that section 165(a) deals with the site of manufacture and clearly provides that "manufactured products" must be "produced in the United States." Goodyear stated that "while rubber and certain petroleum products are to be treated as if they were domestic components under section 165, the status of such components as domestic does not make end items manufactured abroad into domestic end products." Goodyear concluded that, for purposes of section 165(a), listed items may be considered as domestic in determining the domestic content of a "manufactured product" but such an inclusion does not alter the basic requirement that all manufacturing processes must take place in the United States.

UMTA Decision—May 20, 1987—Determination of Applicability of "Buy America"

The first issue which UMTA addressed in its May 20th decision was UMTA's statutory authority to promulgate the exception set forth in Appendix A to 49 CFR 661.7. Section

165(b)(2) of the Surface Transportation Assistance Act of 1982 provides that the general requirements of section 165(a) concerning domestic preference shall not apply if the item or items being procured "are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality." The Federal Government has already determined that the items listed in 41 CFR 12–6.105 "are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality." Rather than attempting to issue waivers on a case-by-case basis, UMTA (under authority of section 165(b)(2)) incorporated the listing of exempted articles, materials, and supplies already established under the Buy American Act of 1933 (41 U.S.C. 10a–s). Therefore, the determination that rubber and petroleum products were excepted from coverage under section 165 remains corrected.

Once it is determined that two components of a tire are exempt from "Buy America" coverage, the question is whether the tire itself is exempt. The issue is whether the unavailability of a component of an item relieves the manufacturer of that item from the obligation of manufacturing the item in the United States.

Based on the arguments presented by Firestone, Goodyear and Michelin Tire Corporation, UMTA concluded that its May 19, 1986 decision was incorrect under the applicable statute and regulations. The fact that a "Buy America" waiver is granted for a component of an item is irrelevant in determining whether the item itself must meet other applicable "Buy America" requirements. UMTA's "Buy America" regulations at 49 CFR 661.7(f) provide that if a "component" of an "end product" governed by the rolling stock requirements of section 165(b)(3) is granted a waiver, that component is considered "domestic" in calculating the cost of all components. However, the end product must still meet applicable "Buy America" requirements.

UMTA does not agree with the Firestone position that the granting of an exception under section 165(b) waives all of the requirements of section 165(a). In the case of tires, there is a "Buy America" waiver granted to some of a tire's components under section 165(b)(2). If the waiver were applicable to the item being procured, Firestone would be correct in arguing that the requirements of section 165(a) would no longer apply. However, granting a waiver to a component does not waive the requirements otherwise applicable to the product delivered to the UMTA grantee.

UMTA agreed with Goodyear's argument that in order for a manufactured product to meet the requirements of section 165(a), all manufacturing processes of a product must take place in the United States. The fact that some of the components of a manufactured product have been granted a "non-availability" "Buy America" waiver is not controlling. The manufacturing processes for the manufactured product (the tire itself) are not affected by the waiver. A tire, or any other manufactured product is "produced in the United States" if all of the manufacturing processes for the tire take place in the United States. A tire manufactured in Canada cannot meet this statutory requirement. The granting of a non-availability waiver to Firestone for some of the components of its tire does not relieve Firestone of the obligation to manufacture its tires in the United States.

Except for specific cases in which UMTA has granted a "public interest" waiver under section 165(b)(1), the determination set forth on May 20, 1987, concerning the applicability of the "Buy America" requirements to tires applies to any contract or lease for bus tires entered into by an UMTA grantee after May 20, 1987.

Dated: June 19, 1987.

Joseph A. LaSala, Jr.,

Chief Counsel.

[FR Doc. 87–14365 Filed 6–23–87; 8:45 am]

BILLING CODE 4910–57–M

[Docket No. 87–A]

Public Interest Waiver of Buy America Requirements; Request for Comments

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice—request for comments.

SUMMARY: Section 165(a) of the Surface Transportation Assistance Act of 1982 provides that Federal funds may not be obligated for the purchase of manufactured products unless such products are produced in the United States. Section 165(b)(1) provides that the general requirements of section 165(a) can be waived if their application in inconsistent with the public interest. The Urban Mass Transportation Administration (UMTA) is seeking comments on whether such a waiver should be granted for the procurement of bus tires produced in Canada in order to allow increased competition in the bus tire supply industry.

DATES: Comments must be received on or before July 27, 1987.

ADDRESS: Comments should be submitted to UMTA Docket No. 87–A, Urban Mass Transportation Administration, Room 9316, 400 Seventh Street, SW., Washington, DC 20590. All comments and suggestions received will be available for examination at the above address between 8:30 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Edward J. Gill, Jr., Office of the Chief Counsel, Room 9316, 400 Seventh Street, SW., Washington, DC 20590. (202) 366–4063.

SUPPLEMENTARY INFORMATION: In a decision dated May 20, 1987, UMTA announced that tires produced in Canada were not exempted from the "Buy America" regulations. (This decision is discussed in detail in a separate Notice in this edition of the **Federal Register**.) A issue addressed in that decision was whether UMTA should issue a public interest waiver under sectin 165(b)(1) of the Surface Transportation Assistance Act of 1982 to allow Canadian made tires to compete with tires manufactured in the United States.

Section 165(b)(1) provides that any of the requirements of section 165(a) may be waived if their application would be inconsistent with the public interest. The implementing regulation at 49 CFR 661.7(b) provides that "[i]n determining whether th[e] exception will be granted, [UMTA] will consider all appropriate factors on a case by case basis . . ."

Firestone Tire and Rubber Company and Michelin Tire Corporation have both argued that if the "Buy America" requirements are applied to their bus tires manufactured in Canada, they are effectively excluded from the U.S. marketplace. They claim that Goodyear Tire and Rubber Company would be left in the position of being the sole supplier of bus tires available to UMTA funded transit providers. Firestone argues that the public interest is best served by having competition in the marketplace.

In the preamble to the "Buy America" regulations published in the **Federal Register** on September 15, 1983 (48 FR 41462), UMTA indicated that in certain circumstances in which a public interest waiver is sought under section 165(b)(1), the proposed waiver would be published in the **Federal Register** for comment. Such a procedure is not mandatory before a public interest waiver is granted, but UMTA uses the procedure where the public interest waiver involves important policy considerations or is controversial. It is UMTA's position

that these circumstances exist in this case.

Before determining whether a public interest waiver under section 165(b)(1) should be issued, UMTA is seeking public comment from all interested parties. UMTA is seeking this public comment since it is felt that the granting or denial of such a waiver would have nationwide consequences and UMTA seeks to have all available information prior to rendering a decision.

Dated: June 19, 1987.

Joseph A. LaSala, Jr.,

Chief Counsel.

[FR Doc. 87-14364 Filed 6-23-87; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular—Public Debt Series—No. 16-87]

Treasury Notes of June 30, 1989, Series Z—1989

June 18, 1987.

1. Invitation for Tenders

1.1 The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $9,750,000,000 of United States securities, designated Treasury Notes of June 30, 1989, Series Z-1989, (CUSIP No. 912827 UZ 3), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated June 30, 1987, and will accrue interest from that date, payable on a semiannual basis on December 31, 1987, and each subsequent 6 months on June 30 and December 31 through the date that the principal becomes payable. They will mature June 30, 1989, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2 The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United Stattes, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Tuesday, June 23, 1987. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, June 22, 1987, and received no later than Tuesday, June 30, 1987.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equvalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places

on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all of most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Tuesday, June 30, 1987. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, June 26, 1987. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Tuesday, June 30, 1987. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tendered form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account numbered previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 87-14433 Filed 6-22-87; 12:21 pm]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 17-87]

Treasury Notes of June 30, 1991, Series N-1991

June 18, 1987.

1. Invitation for Tenders

1.1 The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $7,500,000,000 of United States securities, designated Treasury Notes of June 30, 1991, Series N-1991 (CUSIP No. 912827 VA 7), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated June 30, 1987, and will accrue interest from that date, payable on a semiannual basis on December 31, 1987, and each subsequent 6 months on June 30 and December 31 through the date that the principal becomes payable. They will mature June 30, 1991, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2 The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3 The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5 The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1 Tenders will be received at Federal Reserve Bands and Branches and at the Bureau of the Public Debt, Washington, DC 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Wednesday, June 24, 1987. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, June 23, 1987, and received no later than Tuesday, June 30, 1987.

3.2 The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a 1/8 of one percent increment, which results in an equivalent average accepted price close to 100.000 and lowest accepted price above the original issue discount limit of 99.000. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Tuesday, June 30, 1987. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, June 26, 1987. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Tuesday, June 30, 1987. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 87-14434 Filed 6-22-87; 12:21 pm]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 18-87]

Treasury Notes of July 15, 1994, Series F-1994

June 18, 1987.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $7,000,000,000 of United States securities, designated Treasury Notes of July 15, 1994, Series F-1994 (CUSIP No. 912827 VB 5), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated July 6, 1987, and will accrue interest from that date, payable on a semiannual basis on January 15, 1988, and each subsequent 6 months on July 15 and January 15 through the date that the principal becomes payable. They will mature July 15, 1994, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $1,000, $5,000, $10,000, $100,000 and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations govering book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Thursday, June 25, 1987. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, June 24, 1987, and received no later than Monday, July 6, 1987.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.250. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government

accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Monday, July 6, 1987. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Wednesday, July 1, 1987. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Monday, July 6, 1987. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 87-14435 Filed 6-22-87; 12:21 pm]

BILLING CODE 4810-40-M

Internal Revenue Service

Tax Forms Coordinating Committee; Release of Tax Forms

The Internal Revenue Service is publishing advance proof copies of several major 1987 Federal tax forms and schedules for individual taxpayers. This release supplements the release of forms in May. Included are Schedules C, F, R, and SE of Form 1040, Form 3903, and Form 8615 and instructions, the Tax Table and the Tax Rate Schedules. Persons needing proof copies of any of these items may write to: IRS-CADC, 2402 East Empire, Bloomington, IL 61799. In July, IRS plans to release other principal tax forms for individual taxpayers and businesses.

Please note that these proofs are subject to change and OMB approval before being released for printing in early October.

The revised forms include changes required by the Tax Reform Act of 1986. Major changes are circled. Suggestions for improving these forms should be sent by July 24, 1987 to: Tax Forms Committee, Attn: Early Release, Internal Revenue Service, Room 5577, 1111 Constitution Avenue, NW., Washington, DC 20224.

Although IRS is not required to publish copies of the tax forms under section 1505 of the Federal Register Act or section 552 of the Administrative Procedures Act, we are doing so at this time due to wide public interest in changes to the forms caused by the Tax Reform Act of 1986 and to give the forms broad public exposure. We may be unable to give detailed replies to the comments we receive. However, each suggestion will be carefully considered before the final versions of the forms are issued.

Dated: June 16, 1987.

Approved:

Edmund I. Goldwag,

Director, Tax Forms and Publications Division.

BILLING CODE 4830-01-M

SCHEDULE C (Form 1040)

Department of the Treasury
Internal Revenue Service

Profit or (Loss) From Business or Profession

(Sole Proprietorship)

Partnerships, Joint Ventures, etc., Must File Form 1065.

▶ **Attach to Form 1040, Form 1041, or Form 1041S.** ▶ **See Instructions for Schedule C (Form 1040).**

OMB No. 1545-0074

1987

Attachment Sequence No. **09**

Name of proprietor | **Social security number (SSN)**

A Principal business or profession, including product or service (see Instructions) | B Principal business code (from Part IV) ▶

C Business name and address ▶ | D **Employer ID number (Not SSN)**

E Method(s) used to value closing inventory:
(1) ☐ Cost (2) ☐ Lower of cost or market (3) ☐ Other (attach explanation)

F Accounting method: (1) ☐ Cash (2) ☐ Accrual (3) ☐ Other (specify) ▶

		Yes	No
G	Was there any change in determining quantities, costs, or valuations between opening and closing inventory? (If "Yes," attach explanation.)		
H	Are you deducting expenses for an office in your home?		
I	Did you file **Form 941** for this business for any quarter in 1987?		
J	Did you "materially participate" in the operation of this business during 1987? (If "No," see Instructions for limitations on losses.)		
K	Was this business in operation at the end of 1987?		
L	How many months was this business in operation during 1987? ▶		

M If this schedule includes a loss, credit, deduction, income, or other tax benefit relating to a tax shelter required to be registered, check here ▶ ☐
If you check this box, you **MUST** attach **Form 8271**.

Part I Income

1a	Gross receipts or sales	1a	
b	Less: Returns and allowances	1b	
c	Subtract line 1b from line 1a and enter the balance here	1c	
2	Cost of goods sold and/or operations (from Part III, line 8)	2	
3	Subtract line 2 from line 1c and enter the **gross profit** here	3	
4	Other income (including windfall profit tax credit or refund received in 1987)	4	
5	Add lines 3 and 4. This is the **gross income** ▶	5	

Part II Deductions

6	Advertising		23	Repairs	
7	Bad debts from sales or services (Cash method taxpayers, see Instructions.)		24	Supplies (not included in Part III)	
8	Bank service charges		25	Taxes	
9	Car and truck expenses		26	Travel, meals, and entertainment:	
10	Commissions		a	Travel	
11	Depletion		b	Total meals and entertainment	
12	Depreciation and section 179 deduction from Form 4562 (not included in Part III)		c	Enter 20% of line 26b subject to limitations (see Instructions)	
13	Dues and publications		d	Subtract line 26c from 26b	
14	Employee benefit programs		27	Utilities and telephone	
15	Freight (not included in Part III)		28a	Wages	
16	Insurance		b	Jobs credit	
17	Interest:		c	Subtract line 28b from 28a	
a	Mortgage (paid to financial institutions)		29	Other expenses (list type and amount):	
b	Other				
18	Laundry and cleaning				
19	Legal and professional services				
20	Office expense				
21	Pension and profit-sharing plans				
22	Rent on business property				

30 Add amounts in columns for lines 6 through 29. These are the **total deductions** ▶ 30

31 **Net profit or (loss).** Subtract line 30 from line 5. If a profit, enter here and on Form 1040, line 13, and on Schedule SE, line 2 (or line 5 of Form 1041 or Form 1041S). If a loss, you **MUST** go on to line 32 31

32 If you have a loss, you **MUST** answer this question: "Do you have amounts for which you are not at risk in this business?" (See Instructions.) ☐ Yes ☐ No
If "Yes," you **MUST** attach **Form 6198**. If "No," enter the loss on Form 1040, line 13, and on Schedule SE, line 2 (or line 5 of Form 1041 or Form 1041S).

Schedule C (Form 1040) 1987 Page 2

Part III Cost of Goods Sold and/or Operations (See Schedule C Instructions for Part III)

1	Inventory at beginning of year. (If different from last year's closing inventory, attach explanation.)	1		
2	Purchases less cost of items withdrawn for personal use	2		
3	Cost of labor. (Do not include salary paid to yourself.)	3		
4	Materials and supplies	4		
5	Other costs	5		
6	Add lines 1 through 5	6		
7	Less: Inventory at end of year	7		
8	**Cost of goods sold and/or operations.** Subtract line 7 from line 6. Enter here and in Part I, line 2	8		

Part IV Codes for Principal Business or Professional Activity

Locate the major business category that best describes your activity (for example, Retail Trade, Services, etc.). Within the major category, select the activity code that identifies (or most closely identifies) the business or profession that is the principal source of your sales or receipts. **Enter this 4-digit code on line B on page 1 of Schedule C.** (**Note:** *If your principal source of income is from farming activities, you should file* **Schedule F** *(Form 1040), Farm Income and Expenses.)*

Construction

Code

0018 Operative builders (building for own account)

General contractors

0034 Residential building
0059 Nonresidential building
0075 Highway and street construction
3889 Other heavy construction (pipe laying, bridge construction, etc.)

Building trade contractors, including repairs

0232 Plumbing, heating, air conditioning
0257 Painting and paper hanging
0273 Electrical work
0299 Masonry, dry wall, stone, tile
0414 Carpentering and flooring
0430 Roofing, siding, and sheet metal
0455 Concrete work
0471 Water well drilling
0885 Other building trade contractors (excavation, glazing, etc.)

Manufacturing, including printing and publishing

0612 Bakeries selling at retail
0638 Other food products and beverages
0653 Textile mill products
0679 Apparel and other textile products
0695 Leather, footware, handbags, etc
0810 Furniture and fixtures
0836 Lumber and other wood products
0851 Printing and publishing
0877 Paper and allied products
0893 Chemicals and allied products
1016 Rubber and plastics products
1032 Stone, clay, and glass products
1057 Primary metal industries
1073 Fabricated metal products
1099 Machinery and machine shops
1115 Electric and electronic equipment
1313 Transportation equipment
1339 Instruments and related products
1883 Other manufacturing industries

Mining and mineral extraction

1511 Metal mining
1537 Coal mining
1552 Oil and gas
1719 Quarrying and nonmetallic mining

Agricultural Services, Forestry, and Fishing

1917 Soil preparation services
1933 Crop services
1958 Veterinary services, including pets
1974 Livestock breeding
1990 Other animal services
2113 Farm labor and management services
2212 Horticulture and landscaping
2238 Forestry, except logging
0836 Logging
2279 Fishing, hunting, and trapping

Wholesale Trade—Selling Goods to Other Businesses, Government, or Institutions, etc.

Durable goods, including machinery, equipment, wood, metals, etc.

2618 Selling for your own account

Code

2634 Agent or broker for other firms—more than 50% of gross sales on commission

Nondurable goods, including food, fiber, chemicals, etc.

2659 Selling for your own account
2675 Agent or broker for other firms—more than 50% of gross sales on commission

Retail Trade—Selling Goods to Individuals and Households

3012 Selling door-to-door, by telephone or party plan, or from mobile unit
3038 Catalog or mail order
3053 Vending machine selling

Selling From Store, Showroom, or Other Fixed Location

Food, beverages, and drugs

3079 Eating places (meals or snacks)
3095 Drinking places (alcoholic beverages)
3210 Grocery stores (general line)
0612 Bakeries selling at retail
3236 Other food stores (meat, produce, candy, etc.)
3251 Liquor stores
3277 Drug stores

Automotive and service stations

3319 New car dealers (franchised)
3335 Used car dealers
3517 Other automotive dealers (motorcycles, recreational vehicles, etc.)
3533 Tires, accessories, and parts
3558 Gasoline service stations

General merchandise, apparel, and furniture

3715 Variety stores
3731 Other general merchandise stores
3756 Shoe stores
3772 Men's and boys' clothing stores
3913 Women's ready-to-wear stores
3921 Women's accessory and specialty stores and furriers
3939 Family clothing stores
3954 Other apparel and accessory stores
3970 Furniture stores
3988 TV, audio, and electronics
3988 Computer and software stores
4119 Household appliance stores
4837 Other home furnishing stores (china, floor coverings, drapes, etc.)
4933 Music and record stores

Building, hardware, and garden supply

4416 Building materials dealers
4432 Paint, glass, and wallpaper stores
4457 Hardware stores
4473 Nurseries and garden supply stores

Other retail stores

4614 Used merchandise and antique stores (except used motor vehicle parts)
4630 Gift, novelty, and souvenir shops
4655 Florists
4671 Jewelry stores

Code

4697 Sporting goods and bicycle shops
4812 Boat dealers
4838 Hobby, toy, and game shops
4853 Camera and photo supply stores
4879 Optical goods stores
4895 Luggage and leather goods stores
5017 Book stores, excluding newsstands
5033 Stationery stores
5058 Fabric and needlework stores
5074 Mobile home dealers
5090 Fuel dealers (except gasoline)
5884 Other retail stores

Real Estate, Insurance, Finance, and Related Services

5512 Real estate agents and managers
5538 Operators and lessors of buildings (except developers)
5553 Operators and lessors of other real property (except developers)
5710 Subdividers and developers, except cemeteries
5736 Insurance agents and services
5751 Security and commodity brokers, dealers, and investment services
5777 Other real estate, insurance, and financial activities

Transportation, Communications, Public Utilities, and Related Services

6114 Taxicabs
6312 Bus and limousine transportation
6338 Trucking (except trash collection)
6510 Trash collection without own dump
6536 Public warehousing
6551 Water transportation
6619 Air transportation
6635 Travel agents and tour operators
6650 Other transportation and related services
6676 Communication services
6692 Utilities, including dumps, snowplowing, road cleaning, etc

Services (Providing Personal, Professional, and Business Services)

Hotels and other lodging places

7096 Hotels, motels, and tourist homes
7211 Rooming and boarding houses
7237 Camps and camping parks

Laundry and cleaning services

7419 Coin-operated laundries and dry cleaning
7435 Other laundry, dry cleaning, and garment services
7450 Carpet and upholstery cleaning
7476 Janitorial and related services (building, house, and window cleaning)

Business and/or personal services

7617 Legal services (or lawyer)
7633 Income tax preparation
7658 Accounting and bookkeeping
7674 Engineering, surveying, and architectural

Code

7690 Management, consulting, and public relations
7716 Advertising, except direct mail
7732 Employment agencies and personnel supply
7757 Computer and data processing, including repair and leasing
7773 Equipment rental and leasing (except computer or automotive)
7914 Investigative and protective services
7880 Other business services

Personal services

8110 Beauty shops (or beautician)
8318 Barber shop (or barber)
8334 Photographic portrait studios
8516 Shoe repair and shine services
8532 Funeral services and crematories
8714 Child day care
8730 Teaching or tutoring
8755 Counseling (except health practitioners)
8771 Ministers and chaplains
6882 Other personal services

Automotive services

8813 Automotive rental or leasing, without driver
8839 Parking, except valet
8854 General automotive repairs
8870 Specialized automotive repairs (brake, body repairs, paint, etc.)
8896 Other automotive services (wash, towing, etc.)

Miscellaneous repair, except computers

9019 TV and audio equipment repair
9035 Other electrical equipment repair
9050 Reupholstery and furniture repair
2881 Other equipment repair

Medical and health services

9217 Offices and clinics of medical doctors (MD's)
9233 Offices and clinics of dentists
9258 Osteopathic physicians and surgeons
9274 Chiropractors
9290 Optometrists
9415 Registered and practical nurses
9431 Other licensed health practitioners
9456 Dental laboratories
9472 Nursing and personal care facilities
9886 Other health services

Amusement and recreational services

8557 Physical fitness facilities
9613 Videotape rental stores
9639 Motion picture theaters
9654 Other motion picture and TV film and tape activities
9670 Bowling alleys
9696 Professional sports and racing, including promoters and managers
9811 Theatrical performers, musicians, agents, producers, and related services
9837 Other amusement and recreational services

8888 Unable to classify

SCHEDULE F (Form 1040)

Department of the Treasury
Internal Revenue Service

Farm Income and Expenses

► Attach to Form 1040, Form 1041, Form 1041S, or Form 1065.

► See Instructions for Schedule F (Form 1040).

OMB No. 1545-0074

1987

Attachment Sequence No. 14

Name of proprietor

Social security number (SSN)

A Principal Product (Describe in one or two words your principal crop or output for the current tax year.)

B Agricultural Activity Code (from Part IV) ►

C Accounting Method:

☐ Cash ☐ Accrual

D Employer ID number (Not SSN)

E Did you make an election in a prior year to include commodity credit loan proceeds as income in that year? ☐ Yes ☐ No

F Did you "materially participate" in the operation of this business during 1987? (If "No," see Instructions for limitation on losses.) ☐ Yes ☐ No

G Are you making the election to **not** capitalize expenses that have a preproductive period of more than 2 years? (See Instructions.) ☐ Yes ☐ No

Part I Farm Income—Cash Method—Complete Parts I and II

(Accrual method taxpayers complete Parts II and III, and line 12 of Part I.)

Do not include sales of livestock held for draft, breeding, sport, or dairy purposes; report these sales on Form 4797.

1	Sales of livestock and other items you bought for resale			
2	Cost or other basis of livestock and other items you bought for resale	2		
3	Subtract line 2 from line 1		3	
4	Sales of livestock, produce, grains, and other products you raised		4	
5a	Total distributions received from cooperatives (from Form 1099-PATR)	5a		
b	**Less:** Nonincome items	5b		
6	Net distributions. Subtract line 5b from line 5a		6	
7	Agricultural program payments:			
a	Cash		7a	
b	Materials and services		7b	
8	Commodity credit loans under election (or forfeited)		8	
9	Crop insurance proceeds. If election attached to include in income in year following damage, check here ► ☐		9	
10	Machine work (custom hire) income		10	
11	Other income, including Federal and state gasoline tax credit or refund (see Instructions)		11	
12	**Gross income.** Add amounts on lines 3, 4, 6, and 7a through 11. If accrual method taxpayer, enter the amount from Part III, line 52 ►		12	

Part II Farm Deductions—Cash and Accrual Method

Do not include personal or living expenses (such as taxes, insurance, repairs, etc., on your home) which do not produce farm income. Reduce the amount of your farm deductions by any reimbursements before entering the deduction below.

13	Breeding fees		24a	Labor hired	
14	Chemicals		b	Jobs credit	
15	Conservation expenses (you must attach Form 8645)		c	Net labor hired (subtract line 24b from line 24a)	
16	Depreciation and section 179 expense deduction (from Form 4562)		25	Machine (custom) hire	
17	Employee benefit programs other than on line 26		26	Pension and profit-sharing plans	
18	Feed purchased		27	Rent of farm, pasture	
19	Fertilizers and lime		28	Repairs, maintenance	
20	Freight, trucking		29	Seeds, plants purchased	
21	Gasoline, fuel, oil		30	Storage, warehousing	
22	Insurance		31	Supplies purchased	
23	Interest:		32	Taxes	
a	Mortgage (paid to financial institutions)		33	Utilities	
b	Other		34	Veterinary fees, medicine	
			35	Other expenses (specify):	
			a		
			b		
			c		

36	**Total deductions from Part II.** Add amounts in columns for lines 13 through 35c ►	36	
37	**Net farm profit or (loss).** Subtract line 36 from line 12. If a profit, enter on Form 1040, line 18, and on Schedule SE, line 1. If a loss, you **MUST** go on to line 38. (Fiduciaries and partnerships, see Instructions.)	37	

38 If you have a loss, you **MUST** answer this question: "Do you have amounts for which you are not at risk in this business?" (See Instructions.) ☐ Yes ☐ No

If "Yes," you **MUST** attach **Form 6198**. If "No," enter the loss on Form 1040, line 18, and on Schedule SE, line 1.

Part III Farm Income—Accrual Method

Do not include sales of livestock held for draft, breeding, sport, or dairy purposes; report these sales on Form 4797 and do not include them on line 47 below.

39	Sales of livestock, produce, grains, and other products during year			39
40a	Total distributions received from cooperatives (from Form 1099-PATR)	40a		
b	**Less:** Nonincome items	40b		
41	Net distributions. Subtract line 40b from line 40a			41
42	Agricultural program payments:			
a	Cash			42a
b	Materials and services			42b
43	Commodity credit loans under election (or forfeited)			43
44	Machine work (custom hire) income			44
45	Other income, including Federal and state gasoline tax credit or refund (see Instructions)			45
46	**Total.** Add amounts on lines 39 and 41 through 45			46
47	Inventory of livestock, produce, grains, and other products at beginning of year	47		
48	Cost of livestock, produce, grains, and other products purchased during year	48		
49	Add lines 47 and 48	49		
50	Inventory of livestock, produce, grains, and other products at end of year	50		
51	Cost of livestock, produce, grains, and other products sold. Subtract line 50 from line 49 *			51
52	**Gross Income.** Subtract line 51 from line 46. Enter here and on Part I, line 12 ▶			52

* If you use the unit-livestock-price method or the farm-price method of valuing inventory and the amount on line 50 is larger than the amount on line 49, subtract line 49 from line 50. Enter the result on line 51 and add lines 46 and 51. Enter the total on line 52

Part IV Principal Agricultural Activity Codes

Select one of the following codes and write the 3-digit number on line B on page 1 of this schedule. (**Note:** *If your principal source of income is from providing agricultural services such as soil preparation, veterinary, farm labor, horticultural, or management for a fee or on a contract basis, you should file* ***Schedule C*** *(Form 1040), Profit or (Loss) From Business or Profession.*)

120 **Field crop,** including grains and nongrains such as cotton, peanuts, feed corn, wheat, tobacco, Irish potatoes, etc.

160 **Vegetables and melons,** garden-type vegetables and melons, such as sweet corn, tomatoes, squash, etc.

170 **Fruit and tree nuts,** including grapes, berries, olives, etc.

180 **Ornamental floriculture and nursery products**

185 **Food crops grown under cover,** including hydroponic crops

211 **Beefcattle feedlots**

212 **Beefcattle,** except feedlots

215 **Hogs, sheep, and goats**

240 **Dairy**

250 **Poultry and eggs,** including chickens, ducks, pigeons, quail, etc.

260 **General livestock,** not specializing in any one livestock category

270 **Animal specialty,** including fur-bearing animals, pets, horses, etc.

280 **Animal aquaculture,** including fish, shellfish, mollusks, frogs, etc., produced within confined space

290 **Forest products,** including forest nurseries and seed gathering, extraction of pine gum, and gathering of forest products

300 **Agricultural production,** not specified

Schedule R (Form 1040)

Department of the Treasury
Internal Revenue Service

Credit for the Elderly or for the Permanently and Totally Disabled

▶ For Paperwork Reduction Act Notice, see separate Instructions.
▶ Attach to Form 1040. ▶ See separate Instructions for Schedule R.

OMB No. 1545-0074

1987

Attachment Sequence No. 17

Name(s) as shown on Form 1040 | Your social security number

You may be able to use Schedule R to reduce your tax if by the end of 1987:

- You were 65 or over, **OR**
- You were under 65, you retired on permanent and total disability, and you received taxable disability income.

Even if one of the situations described above applies to you, you must meet other tests to be able to take the credit on Schedule R. See the separate Schedule R Instructions for details.

Note: *IRS can figure this credit and your tax for you. See page 13 of the Form 1040 Instructions.*

Part I Check the Box That Applies to Your Filing Status and Age (Check only one box)

If your filing status is:	And by the end of 1987:	Check box:
Single*	1 You were 65 or over	1 ☐
	2 You were under 65 and you retired on permanent and total disability	2 ☐
Married filing a joint return	3 Both spouses were 65 or over	3 ☐
	4 Both spouses were under 65, but only one spouse retired on permanent and total disability	4 ☐
	5 Both spouses were under 65, and both retired on permanent and total disability	5 ☐
	6 One spouse was 65 or over, and the other spouse was under 65 and retired on permanent and total disability	6 ☐
	7 One spouse was 65 or over, and the other spouse was under 65 and **NOT** retired on permanent and total disability	7 ☐
Married filing a separate return	8 You were 65 or over, and you did not live with your spouse at any time in 1987	8 ☐
	9 You were under 65, you retired on permanent and total disability, and you did not live with your spouse at any time in 1987	9 ☐

* Includes head of household and qualifying widow(er) with dependent child.

Note: *If you checked the box on line 1, 3, 7, or 8, skip Part II and complete Part III. If you checked the box on line 2, 4, 5, 6, or 9, complete Parts II and III.*

Part II Statement of Permanent and Total Disability (Complete **only** if you checked the box on line 2, 4, 5, 6, or 9 above)

IF: 1 You filed a physician's statement for this disability for 1983 or an earlier year, or you filed a statement for tax years after 1983 and your physician checked Box B on the statement, **AND**

2 Due to your continued disabled condition, you were unable to engage in any substantial gainful activity in 1987, check this box. ▶ ☐

If you checked this box, you do not have to file another statement for 1987. If you did not check this box, have your physician complete the following statement:

Physician's Statement

I certify that _____
Name of disabled person

was permanently and totally disabled on January 1, 1976, or January 1, 1977, **OR** was permanently and totally disabled on the date he or she retired. Date retired if retired after December 31, 1976. ▶ _____

Physician: Sign your name on either line A or B below and check the box to the right of your signature.

A The disability has lasted, or can be expected to last, continuously for at least a year . . . _____ A ☐
Physician's signature Date

B There is no reasonable probability that the disabled condition will ever improve . . . _____ B ☐
Physician's signature Date

Physician's name | Physician's address

Instructions for Statement

Taxpayer

Enter in the space provided the date you retired if you retired after December 31, 1976.

Physician

A person is permanently and totally disabled when—

- He or she cannot engage in any substantial gainful activity because of a physical or mental condition; and
- A physician determines that the disability:
  1. has lasted, or can be expected to last, continuously for at least a year; or
  2. can be expected to lead to death.

(Continued on back)

Part III Figure the Amount of Your Credit

10 Enter: $5,000 if you checked the box on line 1, 2, 4, or 7 in Part I, **OR** $7,500 if you checked the box on line 3, 5, or 6 in Part I, **OR** $3,750 if you checked the box on line 8 or 9 in Part I. 10

Caution: *If you checked the box on line 2, 4, 5, 6, or 9 in Part I, you **MUST** complete line 11 below. Otherwise, skip line 11 and enter the amount from line 10 on line 12.*

11 Enter on this line your taxable disability income (and also your spouse's if you checked the box on line 5 in Part I) that you reported on Form 1040. However, if you checked the box on line 6 in Part I, enter on this line the taxable disability income of the spouse who was under age 65 PLUS $5,000. (For more details on what to include, see the Instructions.) 11

12 If you completed line 11 above, compare the amounts on lines 10 and 11, and enter the **smaller** of the two amounts on this line. Otherwise, enter the amount from line 10 on this line 12

13 Enter the following pensions, annuities, or disability income that you (and your spouse if you file a joint return) received in 1987:

a Nontaxable part of social security benefits 13a

b Nontaxable part of railroad retirement benefits treated as social security; and Nontaxable veterans' pensions; and Any other pension, annuity, or disability benefit that is excluded from income under any other provision of law . . . 13b

c Add lines 13a and 13b. (Even though these income items are not subject to income tax, they **must** be included to figure your credit.) If you did not receive any of the types of nontaxable income listed on line 13a or 13b, enter -0- on line 13c 13c

14 Enter the amount from Form 1040, line 31. 14

15 Enter: $7,500 if you checked the box on line 1 or 2 in Part I, **OR** $10,000 if you checked the box on line 3, 4, 5, 6, or 7 in Part I, **OR** $5,000 if you checked the box on line 8 or 9 in Part I. 15

16 Subtract line 15 from line 14. Enter the result. If line 15 is more than line 14, enter -0- 16

17 Divide the amount on line 16 by 2. Enter the result 17

18 Add lines 13c and 17. Enter the total 18

19 Subtract line 18 from line 12. Enter the result. If the result is zero or less, stop here; you **cannot** take the credit. Otherwise, go on to line 21 19

20 Percentage used to figure the credit . . . . . 20 × .15

21 Multiply the amount on line 19 by the percentage (.15) on line 20 and enter the result. This is your **credit for the elderly or for the permanently and totally disabled.** Also enter this amount on Form 1040, line 41. 21

SCHEDULE SE (Form 1040)
Department of the Treasury
Internal Revenue Service

Computation of Social Security Self-Employment Tax

▶ See Instructions for Schedule SE (Form 1040).
▶ Attach to Form 1040.

OMB No. 1545-0074
1987
Attachment Sequence No. 18

Name of person with **self-employment** income (as shown on social security card) | Social security number of person with **self-employment** income ▶

A If your only self-employment income was from earnings as a minister, member of a religious order, or Christian Science practitioner, AND you filed Form 4361, then DO NOT file Schedule SE. Instead, write "Exempt-Form 4361" on Form 1040, line 48. However, if you filed Form 4361, but have $400 or more of other earnings subject to self-employment tax, continue with Part I and check here ▶ ☐

B If you filed Form 4029 and have received IRS approval, DO NOT file Schedule SE. Write "Exempt-Form 4029" on Form 1040, line 48.

C If you are not a minister or a member of a religious order and your only earnings subject to self-employment tax are wages from an electing church or church-controlled organization that is exempt from employer social security taxes, skip lines 1–8. Enter zero on line 9. Continue with line 11a.

Part I Regular Computation of Net Earnings From Self-Employment

1	Net farm profit (or loss) from Schedule F (Form 1040), line 37, and farm partnerships, Schedule K-1 (Form 1065), line 14a	1	
2	Net profit (or loss) from Schedule C (Form 1040), line 31, and Schedule K-1 (Form 1065), line 14a (other than farming). (See Instructions for other income to report.) Employees of an electing church or church-controlled organization DO NOT enter your Form W-2 wages on line 2. See the Instructions	2	

Part II Optional Computation of Net Earnings From Self-Employment (See "Who Can Use Schedule SE" in the Instructions.)

See Instructions for limitations. Generally, this part may be used **only** if you meet any of the following tests:

A Your **gross** farm income[1] was not more than $2,400; **or**

B Your **gross** farm income[1] was more than $2,400 and your **net** farm profits[2] were **less** than $1,600; **or**

C Your **net** nonfarm profits[3] were less than $1,600 and your **net** nonfarm profits[3] were also **less** than two-thirds (⅔) of your **gross** nonfarm income.[4]

Note: *If line 2 above is two-thirds (⅔) or more of your gross nonfarm income[4], or, if line 2 is $1,600 or more, you may* ***not*** *use the optional method.*

[1]From Schedule F (Form 1040), line 12, and Schedule K-1 (Form 1065), line 14b. [3]From Schedule C (Form 1040), line 31, and Schedule K-1 (Form 1065), line 14a.
[2]From Schedule F (Form 1040), line 37, and Schedule K-1 (Form 1065), line 14a. [4]From Schedule C (Form 1040), line 5, and Schedule K-1 (Form 1065), line 14c.

3	Maximum income for optional methods	3	$1,600 00
4	Farm Optional Method—If you meet test A or B above, enter the **smaller of:** two-thirds (⅔) of gross farm income from Schedule F (Form 1040), line 12, and farm partnerships, Schedule K-1 (Form 1065), line 14b; **or** $1,600	4	
5	Subtract line 4 from line 3	5	
6	Nonfarm Optional Method—If you meet test C above, enter the **smallest of:** two-thirds (⅔) of gross nonfarm income from Schedule C (Form 1040), line 5, and Schedule K-1 (Form 1065), line 14c (other than farming); **or** $1,600; **or,** if you elected the farm optional method, the amount on line 5	6	

Part III Computation of Social Security Self-Employment Tax

7	Enter the amount from Part I, line 1, or, if you elected the farm optional method, Part II, line 4		7	
8	Enter the amount from Part I, line 2, or, if you elected the nonfarm optional method, Part II, line 6		8	
9	Add lines 7 and 8. If less than $400, do not file this schedule. (**Exception:** If you are an employee of an electing church or church-controlled organization, enter zero and complete the rest of this schedule.)		9	
10	The largest amount of combined wages and self-employment earnings subject to social security or railroad retirement tax (tier 1) for 1987 is		10	$43,800 00
11a	Total social security wages and tips from Forms W-2 and railroad retirement compensation (tier 1). **Note:** *Medicare qualified government employees whose wages are only subject to the 1.45% medicare (hospital insurance benefits) tax and employees of certain church or church-controlled organizations should* ***not*** *include those wages on this line. (See Instructions.)*	11a		
b	Unreported tips subject to social security tax from Form 4137, line 9, or to railroad retirement tax (tier 1)	11b		
c	Add lines 11a and 11b		11c	
12a	Subtract line 11c from line 10. (If zero or less, enter zero.)		12a	
b	Enter your medicare qualified government wages if you are required to use the worksheet in Part III of the Instructions	12b		
c	Enter your Form W-2 wages of $100 or more from an electing church or church-controlled organization	12c		
d	If line 9 is less than $400, enter the amount from 12c. If line 9 is $400 or more, enter the total of lines 9 and 12c		12d	
13	Enter the smaller of line 12a or line 12d. If line 13 is $43,800, enter $5,387.40 on line 14. Otherwise, multiply line 13 by .123 and enter the result on line 14		13	×.123
14	Self-employment tax. Enter this amount on Form 1040, line 48		14	

For Paperwork Reduction Act Notice, see Form 1040 Instructions.

Schedule SE (Form 1040) 1987

Version A

Form **3903**

Department of the Treasury
Internal Revenue Service

Moving Expenses

▶ Attach to Form 1040.

▶ See separate Instructions.

OMB No. 1545-0062

1987

Attachment Sequence No. **62**

Name(s) as shown on Form 1040 | Your social security number

1	Enter the number of miles from your **old** residence to your **new** work place	1	
2	Enter the number of miles from your **old** residence to your **old** work place	2	
3	Subtract line **2** from line **1**. If the result is 35 or more, enter here and complete the rest of this form. ▶	3	

If line **3** is less than 35, you may not deduct moving expenses. This rule does not apply to members of the armed forces.

Section A.—Transportation of Household Goods:

4	Enter here the actual cost of moving your household goods and personal effects	4	

Section B.—Expenses in Traveling From Old to New Residence:

5	Travel and lodging NOT including meals	5		
6	Total meals	6		
7	Enter reimbursements you received for the meals shown on line 6 on which no income tax was withheld. Do not enter more than the amount shown on line 6	7		
8	Subtract line 7 from line 6	8		
9	Multiply line 8 by 80% (.80)	9		
10	Add lines 5, 7, and 9			10

Section C.—Pre-move Expenses in Looking for New Residence:

11	Travel and lodging NOT including meals	11		
12	Total meals (house hunting)	12		
13	Enter reimbursements you received for the meals shown on line 12 on which no income tax was withheld. Do not enter more than the amount shown on line 12	13		
14	Subtract line 13 from line 12	14		
15	Multiply line 14 by 80% (.80)	15		
16	Add lines 11, 13, and 15	16		

Section D.—Temporary Living Expenses (for any 30 days in a row after getting your job):

17	Lodging expenses NOT including meals	17		
18	Total meals (temporary quarters)	18		
19	Enter reimbursements you received for the meals shown on line 18 on which no income tax was withheld. Do not enter more than the amount shown on line 18	19		
20	Subtract line 19 from line 18	20		
21	Multiply line 20 by 80% (.80)	21		
22	Add lines 17, 19, and 21	22		

Section E.—Qualified Real Estate Expenses:

23	Expenses of (check one): **a** ☐ selling or exchanging your old residence; or **b** ☐ if renting, settling an unexpired lease	23		
24	Expenses of (check one): **a** ☐ buying your new residence; or **b** ☐ if renting, getting a new lease	24		

Section F.—Dollar Limitations:

25	Add lines 16 and 22	25		
26	Enter the smaller of line 25 or $3,000 ($1,500 if married, filing a separate return, and at the end of the tax year you lived with your spouse who also started work during the tax year)	26		
27	Add lines 23, 24, and 26	27		
28	Enter the smaller of line 27 or $3,000 ($1,500 if married, filing a separate return, and at the end of the tax year you lived with your spouse who also started work during the tax year)			28

Note: *Use any amount on line **23a** not deducted because of the $3,000 (or $1,500) limit to decrease the gain on the sale of your residence. Use any amount on **24a** not deducted because of the limit to increase the basis of your new residence. See **No Double Benefit** in the Instructions.*

29	Add lines 4, 10, and 28. This is your moving expense deduction. Enter here and on Schedule A (Form 1040), line 19 ▶	29	

Note: *If your employer paid for any part of your move (including the value of any services furnished in kind), report that amount on **Form 1040, line 7**. See **Reimbursements** in the Instructions.*

For Paperwork Reduction Act Notice, see separate Instructions. Form **3903** (1987)

Form **8615**

Department of the Treasury
Internal Revenue Service

Computation of Tax for Children Under Age 14 Who Have Investment Income of More Than $1,000

► See Instructions below.
► Attach to the Child's Form 1040, Form 1040A, or Form 1040NR.

OMB No. 1545-xxxx

1987

Attachment Sequence No. **33**

General Instructions

Purpose of Form.—Before 1987, the tax law allowed income-producing property to be given to children so that the investment income from the property could be taxed at the children's lower tax rate. The law was changed for 1987 and later years so that, for children under age 14, investment income (such as interest and dividends) over $1,000 will be taxed at the parent's rate if higher than the child's rate.

Do not use this form if the child's investment income is $1,000 or less. Instead, figure the tax in the normal manner on the child's income tax return. For example, if the child had $900 of interest income and $200 of income from wages, Form 8615 is not required to be completed and the child's tax should be figured on Form 1040A using the Tax Table.

If the child's investment income is more than $1,000, use this form to see if any of the child's net investment income is taxed at the parent's rate and, if so, to figure the child's tax. For example, if the child had $1,100 of interest income and $200 of income from wages, Form 8615 should be completed and attached to the child's Form 1040A.

Investment income.— As referred to in this form, the term investment income includes all taxable income other than earned income as defined on page 2. It includes income such as interest, dividends, capital gains, rents, royalties, etc. It also includes pension and annuity income and income received as the beneficiary of a trust.

Who Must File.—Generally, **Form 8615** must be filed for any child who was under age 14 on December 31, 1987, and who had more than $1,000 of investment income. However, if neither parent was alive on December 31, do not use Form 8615. Instead, figure the child's tax based on his or her own rate.

Additional Information.—For more information about the tax on investment income of children, please get **Publication 922**, Tax Rules for Children and Dependents (Rev. Nov. 1987).

Child's name as shown on return | **Child's social security number**

Parent's name (first, initial, and last). (**Caution:** See Instructions before completing.) | Parent's filing status | **Parent's social security number**

Step 1 Figure child's net investment income

1	Enter the child's investment income, such as interest and dividend income (see Instructions). (If this amount is $1,000 or less, stop here; do not file this form.)	1	
2	If the child DID NOT itemize deductions on Schedule A (Form 1040 or Form 1040NR), enter $1,000. If the child ITEMIZED deductions, see the Instructions	2	
3	Subtract the amount on line 2 from the amount on line 1. Enter the result. (If zero or less, stop here; do not complete the rest of this form but ATTACH it to the child's return.)	3	
4	Enter the child's taxable income (from Form 1040, line 36; Form 1040A, line 17; or Form 1040NR, line 35)	4	
5	Compare the amounts on lines 3 and 4 and enter the **smaller** of the two amounts ►	5	

Step 2 Figure tentative tax based on the parent's tax rate

6	Enter the parent's taxable income (from Form 1040, line 36; Form 1040A, line 17; Form 1040EZ, line 7; or Form 1040NR, line 35)	6	
7	Enter the total, if any, of the net investment income from Forms 8615, line 5, of ALL OTHER children of the parent listed above	7	
8	Add the amounts on lines 5, 6, and 7. Enter the total	8	
9	Tax on the amount on line 8 based on the **parent's** filing status (see Instructions). Check if from ☐ Tax Table, ☐ Tax Rate Schedule X, Y, or Z, or ☐ Schedule D	9	
10	Enter the parent's tax (from Form 1040, line 37; Form 1040A, line 18; Form 1040EZ, line 9; or Form 1040NR, line 36)	10	
11	Subtract the amount on line 10 from the amount on line 9. Enter the result. (If no amount is entered on line 7, enter the amount from line 11 on line 13.)	11	
12a	Add the amounts on lines 5 and 7. Enter the total (12a)		
b	Divide the amount on line 5 by the amount on line 12a. Enter the percentage	12b	×
13	Multiply the amount on line 11 by the percentage on line 12b. Enter the result ►	13	

Step 3 Figure child's tax

14	Subtract the amount on line 5 from the amount on line 4. Enter the result (14)		
15	Tax on the amount on line 14 based on the **child's** filing status (see Instructions). Check if from ☐ Tax Table, ☐ Tax Rate Schedule X, or ☐ Schedule D	15	
16	Add the amounts on lines 13 and 15. Enter the total	16	
17	Tax on the amount on line 4 based on the **child's** filing status. Check if from ☐ Tax Table, ☐ Tax Rate Schedule X, or ☐ Schedule D	17	
18	Compare the amounts on lines 16 and 17. Enter the **larger** of the two amounts here and on Form 1040, line 37; Form 1040A, line 18; or Form 1040NR, line 36. Be sure to check the box for "Form 8615" ►	18	

Paperwork Reduction Act Notice.—We ask for this information to carry out the Internal Revenue laws of the United States. We need it to ensure that taxpayers are complying with these laws and to allow us to figure and collect the right amount of tax. You are required to give us this information.

Line-by-Line Instructions

We have provided specific instructions for most of the lines on the form. Those lines that do not appear in these instructions are self-explanatory.

Parent's Name and Social Security Number.—If the child's parents were married and filed a joint return, enter the name and social security number of the parent who is listed first on the joint return. For example, if the father's name is listed first on the return and his social security number is entered in the block labeled "Your social security number," enter his name and social security number in the spaces provided on Form 8615.

If the parents were married but filed separate returns, enter the name and social security number of the parent who had the **higher** taxable income. If you do not know which parent has the higher taxable income, see Publication 922.

If the parents were unmarried, treated as unmarried for Federal income tax purposes, or separated either by a divorce or separate maintenance decree, enter the name and social security number of the parent who had custody of the child for most of the year.

Line 1.—If the child had no earned income (defined below), enter the child's adjusted gross income (from Form 1040, line 30; Form 1040A, line 12; or Form 1040NR, line 30).

If the child had earned income, use the worksheet below to figure the amount to enter on line 1. However, if any of the following applies, use the worksheet in Publication 922 instead of the one below to figure the amount to enter on Form 8615, line 1:

- The child files **Form 2555**, Foreign Earned Income.
- The child had a net loss from self-employment.
- The child claims a net operating loss deduction.

Worksheet (keep for your records)

1. Enter the amount from the child's Form 1040, line 22; Form 1040A, line 10; or Form 1040NR, line 22, whichever applies	
2. Enter the child's earned income (defined below) plus any deduction the child claims on Form 1040 or Form 1040NR, line 27	
3. Subtract the amount on line 2 from the amount on line 1. Enter the result here and on Form 8615, line 1	

Earned income includes wages, tips, and other payments received for personal services performed. Generally, earned income is the total of the amount(s) reported on Form 1040, lines 7, 13, and 18; Form 1040A, line 6; or Form 1040NR, lines 8, 14, and 19.

Line 2.—If the child itemized deductions on **Schedule A** (Form 1040 or Form 1040NR), enter on line 2 the **greater** of:

- $500 plus the portion of the amount on Schedule A (Form 1040), line 26 (or Schedule A (Form 1040NR), line 10), that is directly connected with the production of the investment income on Form 8615, line 1; OR
- $1,000.

Line 6.—Enter the taxable income shown on the tax return of the parent identified at the top of Form 8615. If the parent filed a joint return, enter the total taxable income shown on that return even if the parent's spouse is not the child's parent.

Line 9.—Figure the tax on the amount on line 8 using the Tax Table or Tax Rate Schedules, whichever applies. However, if any net capital gain is included on line 8, the tax will be less if **Part IV** of **Schedule D** (Form 1040), Capital Gains and Losses and Reconciliation of Forms 1099-B, can be used to figure the tax. (See Publication 922 for information on how to figure the net capital gain included on line 8.) Schedule D can be used to figure the tax if:

the parent's filing status is:	AND	the amount on Form 8615, line 8, is over:
• Single		• $27,000
• Married filing joint return or Qualifying widow(er) with dependent child		• $45,000
• Married filing separate return		• $22,500
• Head of household		• $38,000

If Schedule D is used to figure the tax:

1. Enter the child's name and social security number in the spaces provided at the top of page 2 of Schedule D;
2. Enter on line 20 of Part IV the amount from Form 8615, line 8;
3. Enter on line 21 of Part IV the net capital gain included on Form 8615, line 8;
4. Complete the rest of Part IV;
5. Enter on Form 8615, line 9, the amount from Part IV, line 28, and check the box for "Schedule D"; and
6. Attach page 2 of Schedule D to the child's return.

Caution: *If the parent is filing Schedule D with his or her own return, DO NOT attach that Schedule D to the child's return.*

Line 10.—Enter the tax shown on the tax return of the parent identified at the top of Form 8615. If the parent filed a joint return, enter the tax shown on that return even if the parent's spouse is not the child's parent.

Line 15.—Figure the tax using the Tax Table or Tax Rate Schedule X, whichever applies. However, if the amount on line 14 is more than $27,000 and includes any net capital gain, the tax on the amount on line 14 will be less if **Schedule D** (Form 1040) is used to figure the tax. See Publication 922 for information on how to figure the net capital gain included on line 14.

If Schedule D is used to figure the tax, follow the steps in the instructions for line 9. However, on line 20 of Part IV, enter the amount from Form 8615, line 14. On line 21, enter the net capital gain included on line 14. Enter the amount from Part IV, line 28, on Form 8615, line 15, and check the box for "Schedule D."

Line 17.—Figure the tax on the child's taxable income as if these rules did not apply. For example, if the child files Schedule D and can use Part IV to figure his or her tax, complete Part IV on the child's actual Schedule D.

Line 18.—Compare the amounts on lines 16 and 17 and enter the **larger** of the two amounts on line 18. Be sure to check the box for "Form 8615" on the appropriate line of the child's tax return even if the amount on line 17 is the larger of the two amounts.

Amended Return.—If after the child's return is filed the parent's taxable income is changed or the net investment income of any of the parent's other children is changed, the child's tax must be refigured using the adjusted amounts. If the child's tax is changed as a result of the adjustment(s), file **Form 1040X**, Amended U.S. Individual Income Tax Return, to correct the child's tax.

1987 Tax Table

Based on Taxable Income

For persons with taxable incomes of less than $50,000.

Example: Mr. and Mrs. Brown are filing a joint return. Their taxable income on line 36 of Form 1040 is $25,325. First, they find the $25,300-25,350 income line. Next, they find the column for married filing jointly and read down the column. The amount shown where the income line and filing status column meet is $3,679. This is the tax amount they must write on line 37 of their return.

At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household
		Your tax is—			
25,200	25,250	4,807	3,664	5,374	3,973
25,250	25,300	4,821	3,671	5,391	3,987
25,300	25,350	4,835	3,679	5,409	4,001
25,350	25,400	4,849	3,686	5,426	4,015

If line 36 (taxable income) is—		And you are—			
At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household
		Your tax is—			
0	5	0	0	0	0
5	15	1	1	1	1
15	25	2	2	2	2
25	50	4	4	4	4
50	75	7	7	7	7
75	100	10	10	10	10
100	125	12	12	12	12
125	150	15	15	15	15
150	175	18	18	18	18
175	200	21	21	21	21
200	225	23	23	23	23
225	250	26	26	26	26
250	275	29	29	29	29
275	300	32	32	32	32
300	325	34	34	34	34
325	350	37	37	37	37
350	375	40	40	40	40
375	400	43	43	43	43
400	425	45	45	45	45
425	450	48	48	48	48
450	475	51	51	51	51
475	500	54	54	54	54
500	525	56	56	56	56
525	550	59	59	59	59
550	575	62	62	62	62
575	600	65	65	65	65
600	625	67	67	67	67
625	650	70	70	70	70
650	675	73	73	73	73
675	700	76	76	76	76
700	725	78	78	78	78
725	750	81	81	81	81
750	775	84	84	84	84
775	800	87	87	87	87
800	825	89	89	89	89
825	850	92	92	92	92
850	875	95	95	95	95
875	900	98	98	98	98
900	925	100	100	100	100
925	950	103	103	103	103
950	975	106	106	106	106
975	1,000	109	109	109	109
1,000					
1,000	1,025	111	111	111	111
1,025	1,050	114	114	114	114
1,050	1,075	117	117	117	117
1,075	1,100	120	120	120	120
1,100	1,125	122	122	122	122
1,125	1,150	125	125	125	125
1,150	1,175	128	128	128	128
1,175	1,200	131	131	131	131
1,200	1,225	133	133	133	133
1,225	1,250	136	136	136	136
1,250	1,275	139	139	139	139
1,275	1,300	142	142	142	142
1,300	1,325	144	144	144	144
1,325	1,350	147	147	147	147
1,350	1,375	150	150	150	150
1,375	1,400	153	153	153	153
1,400	1,425	155	155	155	155
1,425	1,450	158	158	158	158
1,450	1,475	161	161	161	161
1,475	1,500	164	164	164	164
1,500	1,525	166	166	167	166
1,525	1,550	169	169	171	169
1,550	1,575	172	172	174	172
1,575	1,600	175	175	178	175
1,600	1,625	177	177	182	177
1,625	1,650	180	180	186	180
1,650	1,675	183	183	189	183
1,675	1,700	186	186	193	186
1,700	1,725	188	188	197	188
1,725	1,750	191	191	201	191
1,750	1,775	194	194	204	194
1,775	1,800	197	197	208	197
1,800	1,825	200	199	212	199
1,825	1,850	203	202	216	202
1,850	1,875	207	205	219	205
1,875	1,900	211	208	223	208
1,900	1,925	215	210	227	210
1,925	1,950	219	213	231	213
1,950	1,975	222	216	234	216
1,975	2,000	226	219	238	219
2,000					
2,000	2,025	230	221	242	221
2,025	2,050	234	224	246	224
2,050	2,075	237	227	249	227
2,075	2,100	241	230	253	230
2,100	2,125	245	232	257	232
2,125	2,150	249	235	261	235
2,150	2,175	252	238	264	238
2,175	2,200	256	241	268	241
2,200	2,225	260	243	272	243
2,225	2,250	264	246	276	246
2,250	2,275	267	249	279	249
2,275	2,300	271	252	283	252
2,300	2,325	275	254	287	254
2,325	2,350	279	257	291	257
2,350	2,375	282	260	294	260
2,375	2,400	286	263	298	263
2,400	2,425	290	265	302	265
2,425	2,450	294	268	306	268
2,450	2,475	297	271	309	271
2,475	2,500	301	274	313	274
2,500	2,525	305	276	317	277
2,525	2,550	309	279	321	281
2,550	2,575	312	282	324	284
2,575	2,600	316	285	328	288
2,600	2,625	320	287	332	292
2,625	2,650	324	290	336	296
2,650	2,675	327	293	339	299
2,675	2,700	331	296	343	303
2,700	2,725	335	298	347	307
2,725	2,750	339	301	351	311
2,750	2,775	342	304	354	314
2,775	2,800	346	307	358	318
2,800	2,825	350	309	362	322
2,825	2,850	354	312	366	326
2,850	2,875	357	315	369	329
2,875	2,900	361	318	373	333
2,900	2,925	365	320	377	337
2,925	2,950	369	323	381	341
2,950	2,975	372	326	384	344
2,975	3,000	376	329	388	348
3,000					
3,000	3,050	382	334	394	354
3,050	3,100	389	341	401	361
3,100	3,150	397	349	409	369
3,150	3,200	404	356	416	376
3,200	3,250	412	364	424	384
3,250	3,300	419	371	431	391
3,300	3,350	427	379	439	399
3,350	3,400	434	386	446	406
3,400	3,450	442	394	454	414
3,450	3,500	449	401	461	421
3,500	3,550	457	409	469	429
3,550	3,600	464	416	476	436
3,600	3,650	472	424	484	444
3,650	3,700	479	431	491	451
3,700	3,750	487	439	499	459
3,750	3,800	494	446	506	466
3,800	3,850	502	454	514	474
3,850	3,900	509	461	521	481
3,900	3,950	517	469	529	489
3,950	4,000	524	476	536	496
4,000					
4,000	4,050	532	484	544	504
4,050	4,100	539	491	551	511
4,100	4,150	547	499	559	519
4,150	4,200	554	506	566	526
4,200	4,250	562	514	574	534
4,250	4,300	569	521	581	541
4,300	4,350	577	529	589	549
4,350	4,400	584	536	596	556
4,400	4,450	592	544	604	564
4,450	4,500	599	551	611	571
4,500	4,550	607	559	619	579
4,550	4,600	614	566	626	586
4,600	4,650	622	574	634	594
4,650	4,700	629	581	641	601
4,700	4,750	637	589	649	609
4,750	4,800	644	596	656	616
4,800	4,850	652	604	664	624
4,850	4,900	659	611	671	631
4,900	4,950	667	619	679	639
4,950	5,000	674	626	686	646

* This column must also be used by a qualifying widow(er).

Continued on next page

1987 Tax Table—*Continued*

If line 36 (taxable income) is—		And you are—				If line 36 (taxable income) is—		And you are—				If line 36 (taxable income) is—		And you are—			
At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household
		Your tax is—						Your tax is—						Your tax is—			
5,000						**8,000**						**11,000**					
5,000	5,050	682	634	694	654	8,000	8,050	1,132	1,084	1,144	1,104	11,000	11,050	1,582	1,534	1,594	1,554
5,050	5,100	689	641	701	661	8,050	8,100	1,139	1,091	1,151	1,111	11,050	11,100	1,589	1,541	1,601	1,561
5,100	5,150	697	649	709	669	8,100	8,150	1,147	1,099	1,159	1,119	11,100	11,150	1,597	1,549	1,609	1,569
5,150	5,200	704	656	716	676	8,150	8,200	1,154	1,106	1,166	1,126	11,150	11,200	1,604	1,556	1,616	1,576
5,200	5,250	712	664	724	684	8,200	8,250	1,162	1,114	1,174	1,134	11,200	11,250	1,612	1,564	1,624	1,584
5,250	5,300	719	671	731	691	8,250	8,300	1,169	1,121	1,181	1,141	11,250	11,300	1,619	1,571	1,631	1,591
5,300	5,350	727	679	739	699	8,300	8,350	1,177	1,129	1,189	1,149	11,300	11,350	1,627	1,579	1,639	1,599
5,350	5,400	734	686	746	706	8,350	8,400	1,184	1,136	1,196	1,156	11,350	11,400	1,634	1,586	1,646	1,606
5,400	5,450	742	694	754	714	8,400	8,450	1,192	1,144	1,204	1,164	11,400	11,450	1,642	1,594	1,654	1,614
5,450	5,500	749	701	761	721	8,450	8,500	1,199	1,151	1,211	1,171	11,450	11,500	1,649	1,601	1,661	1,621
5,500	5,550	757	709	769	729	8,500	8,550	1,207	1,159	1,219	1,179	11,500	11,550	1,657	1,609	1,669	1,629
5,550	5,600	764	716	776	736	8,550	8,600	1,214	1,166	1,226	1,186	11,550	11,600	1,664	1,616	1,676	1,636
5,600	5,650	772	724	784	744	8,600	8,650	1,222	1,174	1,234	1,194	11,600	11,650	1,672	1,624	1,684	1,644
5,650	5,700	779	731	791	751	8,650	8,700	1,229	1,181	1,241	1,201	11,650	11,700	1,679	1,631	1,691	1,651
5,700	5,750	787	739	799	759	8,700	8,750	1,237	1,189	1,249	1,209	11,700	11,750	1,687	1,639	1,699	1,659
5,750	5,800	794	746	806	766	8,750	8,800	1,244	1,196	1,256	1,216	11,750	11,800	1,694	1,646	1,706	1,666
5,800	5,850	802	754	814	774	8,800	8,850	1,252	1,204	1,264	1,224	11,800	11,850	1,702	1,654	1,714	1,674
5,850	5,900	809	761	821	781	8,850	8,900	1,259	1,211	1,271	1,231	11,850	11,900	1,709	1,661	1,721	1,681
5,900	5,950	817	769	829	789	8,900	8,950	1,267	1,219	1,279	1,239	11,900	11,950	1,717	1,669	1,729	1,689
5,950	6,000	824	776	836	796	8,950	9,000	1,274	1,226	1,286	1,246	11,950	12,000	1,724	1,676	1,736	1,696
6,000						**9,000**						**12,000**					
6,000	6,050	832	784	844	804	9,000	9,050	1,282	1,234	1,294	1,254	12,000	12,050	1,732	1,684	1,744	1,704
6,050	6,100	839	791	851	811	9,050	9,100	1,289	1,241	1,301	1,261	12,050	12,100	1,739	1,691	1,751	1,711
6,100	6,150	847	799	859	819	9,100	9,150	1,297	1,249	1,309	1,269	12,100	12,150	1,747	1,699	1,759	1,719
6,150	6,200	854	806	866	826	9,150	9,200	1,304	1,256	1,316	1,276	12,150	12,200	1,754	1,706	1,766	1,726
6,200	6,250	862	814	874	834	9,200	9,250	1,312	1,264	1,324	1,284	12,200	12,250	1,762	1,714	1,774	1,734
6,250	6,300	869	821	881	841	9,250	9,300	1,319	1,271	1,331	1,291	12,250	12,300	1,769	1,721	1,781	1,741
6,300	6,350	877	829	889	849	9,300	9,350	1,327	1,279	1,339	1,299	12,300	12,350	1,777	1,729	1,789	1,749
6,350	6,400	884	836	896	856	9,350	9,400	1,334	1,286	1,346	1,306	12,350	12,400	1,784	1,736	1,796	1,756
6,400	6,450	892	844	904	864	9,400	9,450	1,342	1,294	1,354	1,314	12,400	12,450	1,792	1,744	1,804	1,764
6,450	6,500	899	851	911	871	9,450	9,500	1,349	1,301	1,361	1,321	12,450	12,500	1,799	1,751	1,811	1,771
6,500	6,550	907	859	919	879	9,500	9,550	1,357	1,309	1,369	1,329	12,500	12,550	1,807	1,759	1,819	1,779
6,550	6,600	914	866	926	886	9,550	9,600	1,364	1,316	1,376	1,336	12,550	12,600	1,814	1,766	1,826	1,786
6,600	6,650	922	874	934	894	9,600	9,650	1,372	1,324	1,384	1,344	12,600	12,650	1,822	1,774	1,834	1,794
6,650	6,700	929	881	941	901	9,650	9,700	1,379	1,331	1,391	1,351	12,650	12,700	1,829	1,781	1,841	1,801
6,700	6,750	937	889	949	909	9,700	9,750	1,387	1,339	1,399	1,359	12,700	12,750	1,837	1,789	1,849	1,809
6,750	6,800	944	896	956	916	9,750	9,800	1,394	1,346	1,406	1,366	12,750	12,800	1,844	1,796	1,856	1,816
6,800	6,850	952	904	964	924	9,800	9,850	1,402	1,354	1,414	1,374	12,800	12,850	1,852	1,804	1,864	1,824
6,850	6,900	959	911	971	931	9,850	9,900	1,409	1,361	1,421	1,381	12,850	12,900	1,859	1,811	1,871	1,831
6,900	6,950	967	919	979	939	9,900	9,950	1,417	1,369	1,429	1,389	12,900	12,950	1,867	1,819	1,879	1,839
6,950	7,000	974	926	986	946	9,950	10,000	1,424	1,376	1,436	1,396	12,950	13,000	1,874	1,826	1,886	1,846
7,000						**10,000**						**13,000**					
7,000	7,050	982	934	994	954	10,000	10,050	1,432	1,384	1,444	1,404	13,000	13,050	1,882	1,834	1,894	1,854
7,050	7,100	989	941	1,001	961	10,050	10,100	1,439	1,391	1,451	1,411	13,050	13,100	1,889	1,841	1,901	1,861
7,100	7,150	997	949	1,009	969	10,100	10,150	1,447	1,399	1,459	1,419	13,100	13,150	1,897	1,849	1,909	1,869
7,150	7,200	1,004	956	1,016	976	10,150	10,200	1,454	1,406	1,466	1,426	13,150	13,200	1,904	1,856	1,916	1,876
7,200	7,250	1,012	964	1,024	984	10,200	10,250	1,462	1,414	1,474	1,434	13,200	13,250	1,912	1,864	1,924	1,884
7,250	7,300	1,019	971	1,031	991	10,250	10,300	1,469	1,421	1,481	1,441	13,250	13,300	1,919	1,871	1,931	1,891
7,300	7,350	1,027	979	1,039	999	10,300	10,350	1,477	1,429	1,489	1,449	13,300	13,350	1,927	1,879	1,939	1,899
7,350	7,400	1,034	986	1,046	1,006	10,350	10,400	1,484	1,436	1,496	1,456	13,350	13,400	1,934	1,886	1,946	1,906
7,400	7,450	1,042	994	1,054	1,014	10,400	10,450	1,492	1,444	1,504	1,464	13,400	13,450	1,942	1,894	1,954	1,914
7,450	7,500	1,049	1,001	1,061	1,021	10,450	10,500	1,499	1,451	1,511	1,471	13,450	13,500	1,949	1,901	1,961	1,921
7,500	7,550	1,057	1,009	1,069	1,029	10,500	10,550	1,507	1,459	1,519	1,479	13,500	13,550	1,957	1,909	1,969	1,929
7,550	7,600	1,064	1,016	1,076	1,036	10,550	10,600	1,514	1,466	1,526	1,486	13,550	13,600	1,964	1,916	1,976	1,936
7,600	7,650	1,072	1,024	1,084	1,044	10,600	10,650	1,522	1,474	1,534	1,494	13,600	13,650	1,972	1,924	1,984	1,944
7,650	7,700	1,079	1,031	1,091	1,051	10,650	10,700	1,529	1,481	1,541	1,501	13,650	13,700	1,979	1,931	1,991	1,951
7,700	7,750	1,087	1,039	1,099	1,059	10,700	10,750	1,537	1,489	1,549	1,509	13,700	13,750	1,987	1,939	1,999	1,959
7,750	7,800	1,094	1,046	1,106	1,066	10,750	10,800	1,544	1,496	1,556	1,516	13,750	13,800	1,994	1,946	2,006	1,966
7,800	7,850	1,102	1,054	1,114	1,074	10,800	10,850	1,552	1,504	1,564	1,524	13,800	13,850	2,002	1,954	2,014	1,974
7,850	7,900	1,109	1,061	1,121	1,081	10,850	10,900	1,559	1,511	1,571	1,531	13,850	13,900	2,009	1,961	2,021	1,981
7,900	7,950	1,117	1,069	1,129	1,089	10,900	10,950	1,567	1,519	1,579	1,539	13,900	13,950	2,017	1,969	2,029	1,989
7,950	8,000	1,124	1,076	1,136	1,096	10,950	11,000	1,574	1,526	1,586	1,546	13,950	14,000	2,024	1,976	2,036	1,996

* This column must also be used by a qualifying widow(er).

Continued on next page

1987 Tax Table—*Continued*

If line 36 (taxable income) is—		And you are—				If line 36 (taxable income) is—		And you are—				If line 36 (taxable income) is—		And you are—			
At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household
		Your tax is—						Your tax is—						Your tax is—			
14,000						**17,000**						**20,000**					
14,000	14,050	2,032	1,984	2,047	2,004	17,000	17,050	2,511	2,434	2,887	2,454	20,000	20,050	3,351	2,884	3,727	2,904
14,050	14,100	2,039	1,991	2,061	2,011	17,050	17,100	2,525	2,441	2,901	2,461	20,050	20,100	3,365	2,891	3,741	2,911
14,100	14,150	2,047	1,999	2,075	2,019	17,100	17,150	2,539	2,449	2,915	2,469	20,100	20,150	3,379	2,899	3,755	2,919
14,150	14,200	2,054	2,006	2,089	2,026	17,150	17,200	2,553	2,456	2,929	2,476	20,150	20,200	3,393	2,906	3,769	2,926
14,200	14,250	2,062	2,014	2,103	2,034	17,200	17,250	2,567	2,464	2,943	2,484	20,200	20,250	3,407	2,914	3,783	2,934
14,250	14,300	2,069	2,021	2,117	2,041	17,250	17,300	2,581	2,471	2,957	2,491	20,250	20,300	3,421	2,921	3,797	2,941
14,300	14,350	2,077	2,029	2,131	2,049	17,300	17,350	2,595	2,479	2,971	2,499	20,300	20,350	3,435	2,929	3,811	2,949
14,350	14,400	2,084	2,036	2,145	2,056	17,350	17,400	2,609	2,486	2,985	2,506	20,350	20,400	3,449	2,936	3,825	2,956
14,400	14,450	2,092	2,044	2,159	2,064	17,400	17,450	2,623	2,494	2,999	2,514	20,400	20,450	3,463	2,944	3,839	2,964
14,450	14,500	2,099	2,051	2,173	2,071	17,450	17,500	2,637	2,501	3,013	2,521	20,450	20,500	3,477	2,951	3,853	2,971
14,500	14,550	2,107	2,059	2,187	2,079	17,500	17,550	2,651	2,509	3,027	2,529	20,500	20,550	3,491	2,959	3,867	2,979
14,550	14,600	2,114	2,066	2,201	2,086	17,550	17,600	2,665	2,516	3,041	2,536	20,550	20,600	3,505	2,966	3,881	2,986
14,600	14,650	2,122	2,074	2,215	2,094	17,600	17,650	2,679	2,524	3,055	2,544	20,600	20,650	3,519	2,974	3,895	2,994
14,650	14,700	2,129	2,081	2,229	2,101	17,650	17,700	2,693	2,531	3,069	2,551	20,650	20,700	3,533	2,981	3,909	3,001
14,700	14,750	2,137	2,089	2,243	2,109	17,700	17,750	2,707	2,539	3,083	2,559	20,700	20,750	3,547	2,989	3,923	3,009
14,750	14,800	2,144	2,096	2,257	2,116	17,750	17,800	2,721	2,546	3,097	2,566	20,750	20,800	3,561	2,996	3,937	3,016
14,800	14,850	2,152	2,104	2,271	2,124	17,800	17,850	2,735	2,554	3,111	2,574	20,800	20,850	3,575	3,004	3,951	3,024
14,850	14,900	2,159	2,111	2,285	2,131	17,850	17,900	2,749	2,561	3,125	2,581	20,850	20,900	3,589	3,011	3,965	3,031
14,900	14,950	2,167	2,119	2,299	2,139	17,900	17,950	2,763	2,569	3,139	2,589	20,900	20,950	3,603	3,019	3,979	3,039
14,950	15,000	2,174	2,126	2,313	2,146	17,950	18,000	2,777	2,576	3,153	2,596	20,950	21,000	3,617	3,026	3,993	3,046
15,000						**18,000**						**21,000**					
15,000	15,050	2,182	2,134	2,327	2,154	18,000	18,050	2,791	2,584	3,167	2,604	21,000	21,050	3,631	3,034	4,007	3,054
15,050	15,100	2,189	2,141	2,341	2,161	18,050	18,100	2,805	2,591	3,181	2,611	21,050	21,100	3,645	3,041	4,021	3,061
15,100	15,150	2,197	2,149	2,355	2,169	18,100	18,150	2,819	2,599	3,195	2,619	21,100	21,150	3,659	3,049	4,035	3,069
15,150	15,200	2,204	2,156	2,369	2,176	18,150	18,200	2,833	2,606	3,209	2,626	21,150	21,200	3,673	3,056	4,049	3,076
15,200	15,250	2,212	2,164	2,383	2,184	18,200	18,250	2,847	2,614	3,223	2,634	21,200	21,250	3,687	3,064	4,063	3,084
15,250	15,300	2,219	2,171	2,397	2,191	18,250	18,300	2,861	2,621	3,237	2,641	21,250	21,300	3,701	3,071	4,077	3,091
15,300	15,350	2,227	2,179	2,411	2,199	18,300	18,350	2,875	2,629	3,251	2,649	21,300	21,350	3,715	3,079	4,091	3,099
15,350	15,400	2,234	2,186	2,425	2,206	18,350	18,400	2,889	2,636	3,265	2,656	21,350	21,400	3,729	3,086	4,105	3,106
15,400	15,450	2,242	2,194	2,439	2,214	18,400	18,450	2,903	2,644	3,279	2,664	21,400	21,450	3,743	3,094	4,119	3,114
15,450	15,500	2,249	2,201	2,453	2,221	18,450	18,500	2,917	2,651	3,293	2,671	21,450	21,500	3,757	3,101	4,133	3,121
15,500	15,550	2,257	2,209	2,467	2,229	18,500	18,550	2,931	2,659	3,307	2,679	21,500	21,550	3,771	3,109	4,147	3,129
15,550	15,600	2,264	2,216	2,481	2,236	18,550	18,600	2,945	2,666	3,321	2,686	21,550	21,600	3,785	3,116	4,161	3,136
15,600	15,650	2,272	2,224	2,495	2,244	18,600	18,650	2,959	2,674	3,335	2,694	21,600	21,650	3,799	3,124	4,175	3,144
15,650	15,700	2,279	2,231	2,509	2,251	18,650	18,700	2,973	2,681	3,349	2,701	21,650	21,700	3,813	3,131	4,189	3,151
15,700	15,750	2,287	2,239	2,523	2,259	18,700	18,750	2,987	2,689	3,363	2,709	21,700	21,750	3,827	3,139	4,203	3,159
15,750	15,800	2,294	2,246	2,537	2,266	18,750	18,800	3,001	2,696	3,377	2,716	21,750	21,800	3,841	3,146	4,217	3,166
15,800	15,850	2,302	2,254	2,551	2,274	18,800	18,850	3,015	2,704	3,391	2,724	21,800	21,850	3,855	3,154	4,231	3,174
15,850	15,900	2,309	2,261	2,565	2,281	18,850	18,900	3,029	2,711	3,405	2,731	21,850	21,900	3,869	3,161	4,245	3,181
15,900	15,950	2,317	2,269	2,579	2,289	18,900	18,950	3,043	2,719	3,419	2,739	21,900	21,950	3,883	3,169	4,259	3,189
15,950	16,000	2,324	2,276	2,593	2,296	18,950	19,000	3,057	2,726	3,433	2,746	21,950	22,000	3,897	3,176	4,273	3,196
16,000						**19,000**						**22,000**					
16,000	16,050	2,332	2,284	2,607	2,304	19,000	19,050	3,071	2,734	3,447	2,754	22,000	22,050	3,911	3,184	4,287	3,204
16,050	16,100	2,339	2,291	2,621	2,311	19,050	19,100	3,085	2,741	3,461	2,761	22,050	22,100	3,925	3,191	4,301	3,211
16,100	16,150	2,347	2,299	2,635	2,319	19,100	19,150	3,099	2,749	3,475	2,769	22,100	22,150	3,939	3,199	4,315	3,219
16,150	16,200	2,354	2,306	2,649	2,326	19,150	19,200	3,113	2,756	3,489	2,776	22,150	22,200	3,953	3,206	4,329	3,226
16,200	16,250	2,362	2,314	2,663	2,334	19,200	19,250	3,127	2,764	3,503	2,784	22,200	22,250	3,967	3,214	4,343	3,234
16,250	16,300	2,369	2,321	2,677	2,341	19,250	19,300	3,141	2,771	3,517	2,791	22,250	22,300	3,981	3,221	4,357	3,241
16,300	16,350	2,377	2,329	2,691	2,349	19,300	19,350	3,155	2,779	3,531	2,799	22,300	22,350	3,995	3,229	4,371	3,249
16,350	16,400	2,384	2,336	2,705	2,356	19,350	19,400	3,169	2,786	3,545	2,806	22,350	22,400	4,009	3,236	4,385	3,256
16,400	16,450	2,392	2,344	2,719	2,364	19,400	19,450	3,183	2,794	3,559	2,814	22,400	22,450	4,023	3,244	4,399	3,264
16,450	16,500	2,399	2,351	2,733	2,371	19,450	19,500	3,197	2,801	3,573	2,821	22,450	22,500	4,037	3,251	4,413	3,271
16,500	16,550	2,407	2,359	2,747	2,379	19,500	19,550	3,211	2,809	3,587	2,829	22,500	22,550	4,051	3,259	4,429	3,279
16,550	16,600	2,414	2,366	2,761	2,386	19,550	19,600	3,225	2,816	3,601	2,836	22,550	22,600	4,065	3,266	4,446	3,286
16,600	16,650	2,422	2,374	2,775	2,394	19,600	19,650	3,239	2,824	3,615	2,844	22,600	22,650	4,079	3,274	4,464	3,294
16,650	16,700	2,429	2,381	2,789	2,401	19,650	19,700	3,253	2,831	3,629	2,851	22,650	22,700	4,093	3,281	4,481	3,301
16,700	16,750	2,437	2,389	2,803	2,409	19,700	19,750	3,267	2,839	3,643	2,859	22,700	22,750	4,107	3,289	4,499	3,309
16,750	16,800	2,444	2,396	2,817	2,416	19,750	19,800	3,281	2,846	3,657	2,866	22,750	22,800	4,121	3,296	4,516	3,316
16,800	16,850	2,455	2,404	2,831	2,424	19,800	19,850	3,295	2,854	3,671	2,874	22,800	22,850	4,135	3,304	4,534	3,324
16,850	16,900	2,469	2,411	2,845	2,431	19,850	19,900	3,309	2,861	3,685	2,881	22,850	22,900	4,149	3,311	4,551	3,331
16,900	16,950	2,483	2,419	2,859	2,439	19,900	19,950	3,323	2,869	3,699	2,889	22,900	22,950	4,163	3,319	4,569	3,339
16,950	17,000	2,497	2,426	2,873	2,446	19,950	20,000	3,337	2,876	3,713	2,896	22,950	23,000	4,177	3,326	4,586	3,346

* This column must also be used by a qualifying widow(er).

Continued on next page

1987 Tax Table—*Continued*

If line 36 (taxable income) is—		And you are—				If line 36 (taxable income) is—		And you are—				If line 36 (taxable income) is—		And you are—			
At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household
		Your tax is—						Your tax is—						Your tax is—			
23,000						**26,000**						**29,000**					
23,000	23,050	4,191	3,334	4,604	3,357	26,000	26,050	5,031	3,784	5,654	4,197	29,000	29,050	6,013	4,367	6,704	5,037
23,050	23,100	4,205	3,341	4,621	3,371	26,050	26,100	5,045	3,791	5,671	4,211	29,050	29,100	6,030	4,381	6,721	5,051
23,100	23,150	4,219	3,349	4,639	3,385	26,100	26,150	5,059	3,799	5,689	4,225	29,100	29,150	6,048	4,395	6,739	5,065
23,150	23,200	4,233	3,356	4,656	3,399	26,150	26,200	5,073	3,806	5,706	4,239	29,150	29,200	6,065	4,409	6,756	5,079
23,200	23,250	4,247	3,364	4,674	3,413	26,200	26,250	5,087	3,814	5,724	4,253	29,200	29,250	6,083	4,423	6,774	5,093
23,250	23,300	4,261	3,371	4,691	3,427	26,250	26,300	5,101	3,821	5,741	4,267	29,250	29,300	6,100	4,437	6,791	5,107
23,300	23,350	4,275	3,379	4,709	3,441	26,300	26,350	5,115	3,829	5,759	4,281	29,300	29,350	6,118	4,451	6,809	5,121
23,350	23,400	4,289	3,386	4,726	3,455	26,350	26,400	5,129	3,836	5,776	4,295	29,350	29,400	6,135	4,465	6,826	5,135
23,400	23,450	4,303	3,394	4,744	3,469	26,400	26,450	5,143	3,844	5,794	4,309	29,400	29,450	6,153	4,479	6,844	5,149
23,450	23,500	4,317	3,401	4,761	3,483	26,450	26,500	5,157	3,851	5,811	4,323	29,450	29,500	6,170	4,493	6,861	5,163
23,500	23,550	4,331	3,409	4,779	3,497	26,500	26,550	5,171	3,859	5,829	4,337	29,500	29,550	6,188	4,507	6,879	5,177
23,550	23,600	4,345	3,416	4,796	3,511	26,550	26,600	5,185	3,866	5,846	4,351	29,550	29,600	6,205	4,521	6,896	5,191
23,600	23,650	4,359	3,424	4,814	3,525	26,600	26,650	5,199	3,874	5,864	4,365	29,600	29,650	6,223	4,535	6,914	5,205
23,650	23,700	4,373	3,431	4,831	3,539	26,650	26,700	5,213	3,881	5,881	4,379	29,650	29,700	6,240	4,549	6,931	5,219
23,700	23,750	4,387	3,439	4,849	3,553	26,700	26,750	5,227	3,889	5,899	4,393	29,700	29,750	6,258	4,563	6,949	5,233
23,750	23,800	4,401	3,446	4,866	3,567	26,750	26,800	5,241	3,896	5,916	4,407	29,750	29,800	6,275	4,577	6,966	5,247
23,800	23,850	4,415	3,454	4,884	3,581	26,800	26,850	5,255	3,904	5,934	4,421	29,800	29,850	6,293	4,591	6,984	5,261
23,850	23,900	4,429	3,461	4,901	3,595	26,850	26,900	5,269	3,911	5,951	4,435	29,850	29,900	6,310	4,605	7,001	5,275
23,900	23,950	4,443	3,469	4,919	3,609	26,900	26,950	5,283	3,919	5,969	4,449	29,900	29,950	6,328	4,619	7,019	5,289
23,950	24,000	4,457	3,476	4,936	3,623	26,950	27,000	5,297	3,926	5,986	4,463	29,950	30,000	6,345	4,633	7,036	5,303
24,000						**27,000**						**30,000**					
24,000	24,050	4,471	3,484	4,954	3,637	27,000	27,050	5,313	3,934	6,004	4,477	30,000	30,050	6,363	4,647	7,054	5,317
24,050	24,100	4,485	3,491	4,971	3,651	27,050	27,100	5,330	3,941	6,021	4,491	30,050	30,100	6,380	4,661	7,071	5,331
24,100	24,150	4,499	3,499	4,989	3,665	27,100	27,150	5,348	3,949	6,039	4,505	30,100	30,150	6,398	4,675	7,089	5,345
24,150	24,200	4,513	3,506	5,006	3,679	27,150	27,200	5,365	3,956	6,056	4,519	30,150	30,200	6,415	4,689	7,106	5,359
24,200	24,250	4,527	3,514	5,024	3,693	27,200	27,250	5,383	3,964	6,074	4,533	30,200	30,250	6,433	4,703	7,124	5,373
24,250	24,300	4,541	3,521	5,041	3,707	27,250	27,300	5,400	3,971	6,091	4,547	30,250	30,300	6,450	4,717	7,141	5,387
24,300	24,350	4,555	3,529	5,059	3,721	27,300	27,350	5,418	3,979	6,109	4,561	30,300	30,350	6,468	4,731	7,159	5,401
24,350	24,400	4,569	3,536	5,076	3,735	27,350	27,400	5,435	3,986	6,126	4,575	30,350	30,400	6,485	4,745	7,176	5,415
24,400	24,450	4,583	3,544	5,094	3,749	27,400	27,450	5,453	3,994	6,144	4,589	30,400	30,450	6,503	4,759	7,194	5,429
24,450	24,500	4,597	3,551	5,111	3,763	27,450	27,500	5,470	4,001	6,161	4,603	30,450	30,500	6,520	4,773	7,211	5,443
24,500	24,550	4,611	3,559	5,129	3,777	27,500	27,550	5,488	4,009	6,179	4,617	30,500	30,550	6,538	4,787	7,229	5,457
24,550	24,600	4,625	3,566	5,146	3,791	27,550	27,600	5,505	4,016	6,196	4,631	30,550	30,600	6,555	4,801	7,246	5,471
24,600	24,650	4,639	3,574	5,164	3,805	27,600	27,650	5,523	4,024	6,214	4,645	30,600	30,650	6,573	4,815	7,264	5,485
24,650	24,700	4,653	3,581	5,181	3,819	27,650	27,700	5,540	4,031	6,231	4,659	30,650	30,700	6,590	4,829	7,281	5,499
24,700	24,750	4,667	3,589	5,199	3,833	27,700	27,750	5,558	4,039	6,249	4,673	30,700	30,750	6,608	4,843	7,299	5,513
24,750	24,800	4,681	3,596	5,216	3,847	27,750	27,800	5,575	4,046	6,266	4,687	30,750	30,800	6,625	4,857	7,316	5,527
24,800	24,850	4,695	3,604	5,234	3,861	27,800	27,850	5,593	4,054	6,284	4,701	30,800	30,850	6,643	4,871	7,334	5,541
24,850	24,900	4,709	3,611	5,251	3,875	27,850	27,900	5,610	4,061	6,301	4,715	30,850	30,900	6,660	4,885	7,351	5,555
24,900	24,950	4,723	3,619	5,269	3,889	27,900	27,950	5,628	4,069	6,319	4,729	30,900	30,950	6,678	4,899	7,369	5,569
24,950	25,000	4,737	3,626	5,286	3,903	27,950	28,000	5,645	4,076	6,336	4,743	30,950	31,000	6,695	4,913	7,386	5,583
25,000						**28,000**						**31,000**					
25,000	25,050	4,751	3,634	5,304	3,917	28,000	28,050	5,663	4,087	6,354	4,757	31,000	31,050	6,713	4,927	7,404	5,597
25,050	25,100	4,765	3,641	5,321	3,931	28,050	28,100	5,680	4,101	6,371	4,771	31,050	31,100	6,730	4,941	7,421	5,611
25,100	25,150	4,779	3,649	5,339	3,945	28,100	28,150	5,698	4,115	6,389	4,785	31,100	31,150	6,748	4,955	7,439	5,625
25,150	25,200	4,793	3,656	5,356	3,959	28,150	28,200	5,715	4,129	6,406	4,799	31,150	31,200	6,765	4,969	7,456	5,639
25,200	25,250	4,807	3,664	5,374	3,973	28,200	28,250	5,733	4,143	6,424	4,813	31,200	31,250	6,783	4,983	7,474	5,653
25,250	25,300	4,821	3,671	5,391	3,987	28,250	28,300	5,750	4,157	6,441	4,827	31,250	31,300	6,800	4,997	7,491	5,667
25,300	25,350	4,835	3,679	5,409	4,001	28,300	28,350	5,768	4,171	6,459	4,841	31,300	31,350	6,818	5,011	7,509	5,681
25,350	25,400	4,849	3,686	5,426	4,015	28,350	28,400	5,785	4,185	6,476	4,855	31,350	31,400	6,835	5,025	7,526	5,695
25,400	25,450	4,863	3,694	5,444	4,029	28,400	28,450	5,803	4,199	6,494	4,869	31,400	31,450	6,853	5,039	7,544	5,709
25,450	25,500	4,877	3,701	5,461	4,043	28,450	28,500	5,820	4,213	6,511	4,883	31,450	31,500	6,870	5,053	7,561	5,723
25,500	25,550	4,891	3,709	5,479	4,057	28,500	28,550	5,838	4,227	6,529	4,897	31,500	31,550	6,888	5,067	7,579	5,737
25,550	25,600	4,905	3,716	5,496	4,071	28,550	28,600	5,855	4,241	6,546	4,911	31,550	31,600	6,905	5,081	7,596	5,751
25,600	25,650	4,919	3,724	5,514	4,085	28,600	28,650	5,873	4,255	6,564	4,925	31,600	31,650	6,923	5,095	7,614	5,765
25,650	25,700	4,933	3,731	5,531	4,099	28,650	28,700	5,890	4,269	6,581	4,939	31,650	31,700	6,940	5,109	7,631	5,779
25,700	25,750	4,947	3,739	5,549	4,113	28,700	28,750	5,908	4,283	6,599	4,953	31,700	31,750	6,958	5,123	7,649	5,793
25,750	25,800	4,961	3,746	5,566	4,127	28,750	28,800	5,925	4,297	6,616	4,967	31,750	31,800	6,975	5,137	7,666	5,807
25,800	25,850	4,975	3,754	5,584	4,141	28,800	28,850	5,943	4,311	6,634	4,981	31,800	31,850	6,993	5,151	7,684	5,821
25,850	25,900	4,989	3,761	5,601	4,155	28,850	28,900	5,960	4,325	6,651	4,995	31,850	31,900	7,010	5,165	7,701	5,835
25,900	25,950	5,003	3,769	5,619	4,169	28,900	28,950	5,978	4,339	6,669	5,009	31,900	31,950	7,028	5,179	7,719	5,849
25,950	26,000	5,017	3,776	5,636	4,183	28,950	29,000	5,995	4,353	6,686	5,023	31,950	32,000	7,045	5,193	7,736	5,863

* This column must also be used by a qualifying widow(er).

Continued on next page

1987 Tax Table—*Continued*

If line 36 (taxable income) is—		And you are—				If line 36 (taxable income) is—		And you are—				If line 36 (taxable income) is—		And you are—			
At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household
		Your tax is—						Your tax is—						Your tax is—			
32,000						**35,000**						**38,000**					
32,000	32,050	7,063	5,207	7,754	5,877	35,000	35,050	8,113	6,047	8,804	6,717	38,000	38,050	9,163	6,887	9,854	7,559
32,050	32,100	7,080	5,221	7,771	5,891	35,050	35,100	8,130	6,061	8,821	6,731	38,050	38,100	9,180	6,901	9,871	7,576
32,100	32,150	7,098	5,235	7,789	5,905	35,100	35,150	8,148	6,075	8,839	6,745	38,100	38,150	9,198	6,915	9,889	7,594
32,150	32,200	7,115	5,249	7,806	5,919	35,150	35,200	8,165	6,089	8,856	6,759	38,150	38,200	9,215	6,929	9,906	7,611
32,200	32,250	7,133	5,263	7,824	5,933	35,200	35,250	8,183	6,103	8,874	6,773	38,200	38,250	9,233	6,943	9,924	7,629
32,250	32,300	7,150	5,277	7,841	5,947	35,250	35,300	8,200	6,117	8,891	6,787	38,250	38,300	9,250	6,957	9,941	7,646
32,300	32,350	7,168	5,291	7,859	5,961	35,300	35,350	8,218	6,131	8,909	6,801	38,300	38,350	9,268	6,971	9,959	7,664
32,350	32,400	7,185	5,305	7,876	5,975	35,350	35,400	8,235	6,145	8,926	6,815	38,350	38,400	9,285	6,985	9,976	7,681
32,400	32,450	7,203	5,319	7,894	5,989	35,400	35,450	8,253	6,159	8,944	6,829	38,400	38,450	9,303	6,999	9,994	7,699
32,450	32,500	7,220	5,333	7,911	6,003	35,450	35,500	8,270	6,173	8,961	6,843	38,450	38,500	9,320	7,013	10,011	7,716
32,500	32,550	7,238	5,347	7,929	6,017	35,500	35,550	8,288	6,187	8,979	6,857	38,500	38,550	9,338	7,027	10,029	7,734
32,550	32,600	7,255	5,361	7,946	6,031	35,550	35,600	8,305	6,201	8,996	6,871	38,550	38,600	9,355	7,041	10,046	7,751
32,600	32,650	7,273	5,375	7,964	6,045	35,600	35,650	8,323	6,215	9,014	6,885	38,600	38,650	9,373	7,055	10,064	7,769
32,650	32,700	7,290	5,389	7,981	6,059	35,650	35,700	8,340	6,229	9,031	6,899	38,650	38,700	9,390	7,069	10,081	7,786
32,700	32,750	7,308	5,403	7,999	6,073	35,700	35,750	8,358	6,243	9,049	6,913	38,700	38,750	9,408	7,083	10,099	7,804
32,750	32,800	7,325	5,417	8,016	6,087	35,750	35,800	8,375	6,257	9,066	6,927	38,750	38,800	9,425	7,097	10,116	7,821
32,800	32,850	7,343	5,431	8,034	6,101	35,800	35,850	8,393	6,271	9,084	6,941	38,800	38,850	9,443	7,111	10,134	7,839
32,850	32,900	7,360	5,445	8,051	6,115	35,850	35,900	8,410	6,285	9,101	6,955	38,850	38,900	9,460	7,125	10,151	7,856
32,900	32,950	7,378	5,459	8,069	6,129	35,900	35,950	8,428	6,299	9,119	6,969	38,900	38,950	9,478	7,139	10,169	7,874
32,950	33,000	7,395	5,473	8,086	6,143	35,950	36,000	8,445	6,313	9,136	6,983	38,950	39,000	9,495	7,153	10,186	7,891
33,000						**36,000**						**39,000**					
33,000	33,050	7,413	5,487	8,104	6,157	36,000	36,050	8,463	6,327	9,154	6,997	39,000	39,050	9,513	7,167	10,204	7,909
33,050	33,100	7,430	5,501	8,121	6,171	36,050	36,100	8,480	6,341	9,171	7,011	39,050	39,100	9,530	7,181	10,221	7,926
33,100	33,150	7,448	5,515	8,139	6,185	36,100	36,150	8,498	6,355	9,189	7,025	39,100	39,150	9,548	7,195	10,239	7,944
33,150	33,200	7,465	5,529	8,156	6,199	36,150	36,200	8,515	6,369	9,206	7,039	39,150	39,200	9,565	7,209	10,256	7,961
33,200	33,250	7,483	5,543	8,174	6,213	36,200	36,250	8,533	6,383	9,224	7,053	39,200	39,250	9,583	7,223	10,274	7,979
33,250	33,300	7,500	5,557	8,191	6,227	36,250	36,300	8,550	6,397	9,241	7,067	39,250	39,300	9,600	7,237	10,291	7,996
33,300	33,350	7,518	5,571	8,209	6,241	36,300	36,350	8,568	6,411	9,259	7,081	39,300	39,350	9,618	7,251	10,309	8,014
33,350	33,400	7,535	5,585	8,226	6,255	36,350	36,400	8,585	6,425	9,276	7,095	39,350	39,400	9,635	7,265	10,326	8,031
33,400	33,450	7,553	5,599	8,244	6,269	36,400	36,450	8,603	6,439	9,294	7,109	39,400	39,450	9,653	7,279	10,344	8,049
33,450	33,500	7,570	5,613	8,261	6,283	36,450	36,500	8,620	6,453	9,311	7,123	39,450	39,500	9,670	7,293	10,361	8,066
33,500	33,550	7,588	5,627	8,279	6,297	36,500	36,550	8,638	6,467	9,329	7,137	39,500	39,550	9,688	7,307	10,379	8,084
33,550	33,600	7,605	5,641	8,296	6,311	36,550	36,600	8,655	6,481	9,346	7,151	39,550	39,600	9,705	7,321	10,396	8,101
33,600	33,650	7,623	5,655	8,314	6,325	36,600	36,650	8,673	6,495	9,364	7,165	39,600	39,650	9,723	7,335	10,414	8,119
33,650	33,700	7,640	5,669	8,331	6,339	36,650	36,700	8,690	6,509	9,381	7,179	39,650	39,700	9,740	7,349	10,431	8,136
33,700	33,750	7,658	5,683	8,349	6,353	36,700	36,750	8,708	6,523	9,399	7,193	39,700	39,750	9,758	7,363	10,449	8,154
33,750	33,800	7,675	5,697	8,366	6,367	36,750	36,800	8,725	6,537	9,416	7,207	39,750	39,800	9,775	7,377	10,466	8,171
33,800	33,850	7,693	5,711	8,384	6,381	36,800	36,850	8,743	6,551	9,434	7,221	39,800	39,850	9,793	7,391	10,484	8,189
33,850	33,900	7,710	5,725	8,401	6,395	36,850	36,900	8,760	6,565	9,451	7,235	39,850	39,900	9,810	7,405	10,501	8,206
33,900	33,950	7,728	5,739	8,419	6,409	36,900	36,950	8,778	6,579	9,469	7,249	39,900	39,950	9,828	7,419	10,519	8,224
33,950	34,000	7,745	5,753	8,436	6,423	36,950	37,000	8,795	6,593	9,486	7,263	39,950	40,000	9,845	7,433	10,536	8,241
34,000						**37,000**						**40,000**					
34,000	34,050	7,763	5,767	8,454	6,437	37,000	37,050	8,813	6,607	9,504	7,277	40,000	40,050	9,863	7,447	10,554	8,259
34,050	34,100	7,780	5,781	8,471	6,451	37,050	37,100	8,830	6,621	9,521	7,291	40,050	40,100	9,880	7,461	10,571	8,276
34,100	34,150	7,798	5,795	8,489	6,465	37,100	37,150	8,848	6,635	9,539	7,305	40,100	40,150	9,898	7,475	10,589	8,294
34,150	34,200	7,815	5,809	8,506	6,479	37,150	37,200	8,865	6,649	9,556	7,319	40,150	40,200	9,915	7,489	10,606	8,311
34,200	34,250	7,833	5,823	8,524	6,493	37,200	37,250	8,883	6,663	9,574	7,333	40,200	40,250	9,933	7,503	10,624	8,329
34,250	34,300	7,850	5,837	8,541	6,507	37,250	37,300	8,900	6,677	9,591	7,347	40,250	40,300	9,950	7,517	10,641	8,346
34,300	34,350	7,868	5,851	8,559	6,521	37,300	37,350	8,918	6,691	9,609	7,361	40,300	40,350	9,968	7,531	10,659	8,364
34,350	34,400	7,885	5,865	8,576	6,535	37,350	37,400	8,935	6,705	9,626	7,375	40,350	40,400	9,985	7,545	10,676	8,381
34,400	34,450	7,903	5,879	8,594	6,549	37,400	37,450	8,953	6,719	9,644	7,389	40,400	40,450	10,003	7,559	10,694	8,399
34,450	34,500	7,920	5,893	8,611	6,563	37,450	37,500	8,970	6,733	9,661	7,403	40,450	40,500	10,020	7,573	10,711	8,416
34,500	34,550	7,938	5,907	8,629	6,577	37,500	37,550	8,988	6,747	9,679	7,417	40,500	40,550	10,038	7,587	10,729	8,434
34,550	34,600	7,955	5,921	8,646	6,591	37,550	37,600	9,005	6,761	9,696	7,431	40,550	40,600	10,055	7,601	10,746	8,451
34,600	34,650	7,973	5,935	8,664	6,605	37,600	37,650	9,023	6,775	9,714	7,445	40,600	40,650	10,073	7,615	10,764	8,469
34,650	34,700	7,990	5,949	8,681	6,619	37,650	37,700	9,040	6,789	9,731	7,459	40,650	40,700	10,090	7,629	10,781	8,486
34,700	34,750	8,008	5,963	8,699	6,633	37,700	37,750	9,058	6,803	9,749	7,473	40,700	40,750	10,108	7,643	10,799	8,504
34,750	34,800	8,025	5,977	8,716	6,647	37,750	37,800	9,075	6,817	9,766	7,487	40,750	40,800	10,125	7,657	10,816	8,521
34,800	34,850	8,043	5,991	8,734	6,661	37,800	37,850	9,093	6,831	9,784	7,501	40,800	40,850	10,143	7,671	10,834	8,539
34,850	34,900	8,060	6,005	8,751	6,675	37,850	37,900	9,110	6,845	9,801	7,515	40,850	40,900	10,160	7,685	10,851	8,556
34,900	34,950	8,078	6,019	8,769	6,689	37,900	37,950	9,128	6,859	9,819	7,529	40,900	40,950	10,178	7,699	10,869	8,574
34,950	35,000	8,095	6,033	8,786	6,703	37,950	38,000	9,145	6,873	9,836	7,543	40,950	41,000	10,195	7,713	10,886	8,591

* This column must also be used by a qualifying widow(er).

Continued on next page

1987 Tax Table—*Continued*

If line 36 (taxable income) is—		And you are—				If line 36 (taxable income) is—		And you are—				If line 36 (taxable income) is—		And you are—			
At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household
		Your tax is—						Your tax is—						Your tax is—			
41,000						**44,000**						**47,000**					
41,000	41,050	10,213	7,727	10,904	8,609	44,000	44,050	11,263	8,567	11,954	9,659	47,000	47,050	12,313	9,549	13,075	10,709
41,050	41,100	10,230	7,741	10,921	8,626	44,050	44,100	11,280	8,581	11,971	9,676	47,050	47,100	12,330	9,566	13,094	10,726
41,100	41,150	10,248	7,755	10,939	8,644	44,100	44,150	11,298	8,595	11,989	9,694	47,100	47,150	12,348	9,584	13,113	10,744
41,150	41,200	10,265	7,769	10,956	8,661	44,150	44,200	11,315	8,609	12,006	9,711	47,150	47,200	12,365	9,601	13,132	10,761
41,200	41,250	10,283	7,783	10,974	8,679	44,200	44,250	11,333	8,623	12,024	9,729	47,200	47,250	12,383	9,619	13,152	10,779
41,250	41,300	10,300	7,797	10,991	8,696	44,250	44,300	11,350	8,637	12,041	9,746	47,250	47,300	12,400	9,636	13,171	10,796
41,300	41,350	10,318	7,811	11,009	8,714	44,300	44,350	11,368	8,651	12,059	9,764	47,300	47,350	12,418	9,654	13,190	10,814
41,350	41,400	10,335	7,825	11,026	8,731	44,350	44,400	11,385	8,665	12,076	9,781	47,350	47,400	12,435	9,671	13,209	10,831
41,400	41,450	10,353	7,839	11,044	8,749	44,400	44,450	11,403	8,679	12,094	9,799	47,400	47,450	12,453	9,689	13,229	10,849
41,450	41,500	10,370	7,853	11,061	8,766	44,450	44,500	11,420	8,693	12,111	9,816	47,450	47,500	12,470	9,706	13,248	10,866
41,500	41,550	10,388	7,867	11,079	8,784	44,500	44,550	11,438	8,707	12,129	9,834	47,500	47,550	12,488	9,724	13,267	10,884
41,550	41,600	10,405	7,881	11,096	8,801	44,550	44,600	11,455	8,721	12,146	9,851	47,550	47,600	12,505	9,741	13,286	10,901
41,600	41,650	10,423	7,895	11,114	8,819	44,600	44,650	11,473	8,735	12,164	9,869	47,600	47,650	12,523	9,759	13,306	10,919
41,650	41,700	10,440	7,909	11,131	8,836	44,650	44,700	11,490	8,749	12,181	9,886	47,650	47,700	12,540	9,776	13,325	10,936
41,700	41,750	10,458	7,923	11,149	8,854	44,700	44,750	11,508	8,763	12,199	9,904	47,700	47,750	12,558	9,794	13,344	10,954
41,750	41,800	10,475	7,937	11,166	8,871	44,750	44,800	11,525	8,777	12,216	9,921	47,750	47,800	12,575	9,811	13,363	10,971
41,800	41,850	10,493	7,951	11,184	8,889	44,800	44,850	11,543	8,791	12,234	9,939	47,800	47,850	12,593	9,829	13,383	10,989
41,850	41,900	10,510	7,965	11,201	8,906	44,850	44,900	11,560	8,805	12,251	9,956	47,850	47,900	12,610	9,846	13,402	11,006
41,900	41,950	10,528	7,979	11,219	8,924	44,900	44,950	11,578	8,819	12,269	9,974	47,900	47,950	12,628	9,864	13,421	11,024
41,950	42,000	10,545	7,993	11,236	8,941	44,950	45,000	11,595	8,833	12,286	9,991	47,950	48,000	12,645	9,881	13,440	11,041
42,000						**45,000**						**48,000**					
42,000	42,050	10,563	8,007	11,254	8,959	45,000	45,050	11,613	8,849	12,305	10,009	48,000	48,050	12,663	9,899	13,460	11,059
42,050	42,100	10,580	8,021	11,271	8,976	45,050	45,100	11,630	8,866	12,324	10,026	48,050	48,100	12,680	9,916	13,479	11,076
42,100	42,150	10,598	8,035	11,289	8,994	45,100	45,150	11,648	8,884	12,343	10,044	48,100	48,150	12,698	9,934	13,498	11,094
42,150	42,200	10,615	8,049	11,306	9,011	45,150	45,200	11,665	8,901	12,362	10,061	48,150	48,200	12,715	9,951	13,517	11,111
42,200	42,250	10,633	8,063	11,324	9,029	45,200	45,250	11,683	8,919	12,382	10,079	48,200	48,250	12,733	9,969	13,537	11,129
42,250	42,300	10,650	8,077	11,341	9,046	45,250	45,300	11,700	8,936	12,401	10,096	48,250	48,300	12,750	9,986	13,556	11,146
42,300	42,350	10,668	8,091	11,359	9,064	45,300	45,350	11,718	8,954	12,420	10,114	48,300	48,350	12,768	10,004	13,575	11,164
42,350	42,400	10,685	8,105	11,376	9,081	45,350	45,400	11,735	8,971	12,439	10,131	48,350	48,400	12,785	10,021	13,594	11,181
42,400	42,450	10,703	8,119	11,394	9,099	45,400	45,450	11,753	8,989	12,459	10,149	48,400	48,450	12,803	10,039	13,614	11,199
42,450	42,500	10,720	8,133	11,411	9,116	45,450	45,500	11,770	9,006	12,478	10,166	48,450	48,500	12,820	10,056	13,633	11,216
42,500	42,550	10,738	8,147	11,429	9,134	45,500	45,550	11,788	9,024	12,497	10,184	48,500	48,550	12,838	10,074	13,652	11,234
42,550	42,600	10,755	8,161	11,446	9,151	45,550	45,600	11,805	9,041	12,516	10,201	48,550	48,600	12,855	10,091	13,671	11,251
42,600	42,650	10,773	8,175	11,464	9,169	45,600	45,650	11,823	9,059	12,536	10,219	48,600	48,650	12,873	10,109	13,691	11,269
42,650	42,700	10,790	8,189	11,481	9,186	45,650	45,700	11,840	9,076	12,555	10,236	48,650	48,700	12,890	10,126	13,710	11,286
42,700	42,750	10,808	8,203	11,499	9,204	45,700	45,750	11,858	9,094	12,574	10,254	48,700	48,750	12,908	10,144	13,729	11,304
42,750	42,800	10,825	8,217	11,516	9,221	45,750	45,800	11,875	9,111	12,593	10,271	48,750	48,800	12,925	10,161	13,748	11,321
42,800	42,850	10,843	8,231	11,534	9,239	45,800	45,850	11,893	9,129	12,613	10,289	48,800	48,850	12,943	10,179	13,768	11,339
42,850	42,900	10,860	8,245	11,551	9,256	45,850	45,900	11,910	9,146	12,632	10,306	48,850	48,900	12,960	10,196	13,787	11,356
42,900	42,950	10,878	8,259	11,569	9,274	45,900	45,950	11,928	9,164	12,651	10,324	48,900	48,950	12,978	10,214	13,806	11,374
42,950	43,000	10,895	8,273	11,586	9,291	45,950	46,000	11,945	9,181	12,670	10,341	48,950	49,000	12,995	10,231	13,825	11,391
43,000						**46,000**						**49,000**					
43,000	43,050	10,913	8,287	11,604	9,309	46,000	46,050	11,963	9,199	12,690	10,359	49,000	49,050	13,013	10,249	13,845	11,409
43,050	43,100	10,930	8,301	11,621	9,326	46,050	46,100	11,980	9,216	12,709	10,376	49,050	49,100	13,030	10,266	13,864	11,426
43,100	43,150	10,948	8,315	11,639	9,344	46,100	46,150	11,998	9,234	12,728	10,394	49,100	49,150	13,048	10,284	13,883	11,444
43,150	43,200	10,965	8,329	11,656	9,361	46,150	46,200	12,015	9,251	12,747	10,411	49,150	49,200	13,065	10,301	13,902	11,461
43,200	43,250	10,983	8,343	11,674	9,379	46,200	46,250	12,033	9,269	12,767	10,429	49,200	49,250	13,083	10,319	13,922	11,479
43,250	43,300	11,000	8,357	11,691	9,396	46,250	46,300	12,050	9,286	12,786	10,446	49,250	49,300	13,100	10,336	13,941	11,496
43,300	43,350	11,018	8,371	11,709	9,414	46,300	46,350	12,068	9,304	12,805	10,464	49,300	49,350	13,118	10,354	13,960	11,514
43,350	43,400	11,035	8,385	11,726	9,431	46,350	46,400	12,085	9,321	12,824	10,481	49,350	49,400	13,135	10,371	13,979	11,531
43,400	43,450	11,053	8,399	11,744	9,449	46,400	46,450	12,103	9,339	12,844	10,499	49,400	49,450	13,153	10,389	13,999	11,549
43,450	43,500	11,070	8,413	11,761	9,466	46,450	46,500	12,120	9,356	12,863	10,516	49,450	49,500	13,170	10,406	14,018	11,566
43,500	43,550	11,088	8,427	11,779	9,484	46,500	46,550	12,138	9,374	12,882	10,534	49,500	49,550	13,188	10,424	14,037	11,584
43,550	43,600	11,105	8,441	11,796	9,501	46,550	46,600	12,155	9,391	12,901	10,551	49,550	49,600	13,205	10,441	14,056	11,601
43,600	43,650	11,123	8,455	11,814	9,519	46,600	46,650	12,173	9,409	12,921	10,569	49,600	49,650	13,223	10,459	14,076	11,619
43,650	43,700	11,140	8,469	11,831	9,536	46,650	46,700	12,190	9,426	12,940	10,586	49,650	49,700	13,240	10,476	14,095	11,636
43,700	43,750	11,158	8,483	11,849	9,554	46,700	46,750	12,208	9,444	12,959	10,604	49,700	49,750	13,258	10,494	14,114	11,654
43,750	43,800	11,175	8,497	11,866	9,571	46,750	46,800	12,225	9,461	12,978	10,621	49,750	49,800	13,275	10,511	14,133	11,671
43,800	43,850	11,193	8,511	11,884	9,589	46,800	46,850	12,243	9,479	12,998	10,639	49,800	49,850	13,293	10,529	14,153	11,689
43,850	43,900	11,210	8,525	11,901	9,606	46,850	46,900	12,260	9,496	13,017	10,656	49,850	49,900	13,310	10,546	14,172	11,706
43,900	43,950	11,228	8,539	11,919	9,624	46,900	46,950	12,278	9,514	13,036	10,674	49,900	49,950	13,328	10,564	14,191	11,724
43,950	44,000	11,245	8,553	11,936	9,641	46,950	47,000	12,295	9,531	13,055	10,691	49,950	50,000	13,345	10,581	14,210	11,741

* This column must also be used by a qualifying widow(er).

50,000 or over—use tax rate schedules

1987 Tax Rate Schedules

Caution: You may use these schedules **ONLY** if your taxable income (Form 1040, line 36) is $50,000 or more. **Example:** Mr. Jones is single. His taxable income on Form 1040, line 36, is $53,525. First, he finds the schedule (Schedule X) for single taxpayers. Next, he finds the $27,000–54,000 income line. Then, he subtracts $27,000 from $53,525 and multiplies the result ($26,525) by 35%. He then adds $9,283.75 ($26,525 x .35) to $5,304 and enters the result ($14,587.75) on Form 1040, line 37.

Schedule X—Single Taxpayers

Use this schedule if you checked **Filing Status Box 1** on Form 1040—

If the amount on Form 1040, line 36 is: Over—	But not over—	Enter on Form 1040, line 37	of the amount over—
$0	$1,800	.....11%	$0
1,800	16,800	$198 + 15%	1,800
16,800	27,000	2,448 + 28%	16,800
27,000	54,000	5,304 + 35%	27,000
54,000	.....	14,754 + 38.5%	54,000

Schedule Z—Heads of Household

(including certain married persons who live apart—see page 5 of the Instructions)

Use this schedule if you checked **Filing Status Box 4** on Form 1040—

If the amount on Form 1040, line 36 is: Over—	But not over—	Enter on Form 1040, line 37	of the amount over—
$0	$2,500	.....11%	$0
2,500	23,000	$275 + 15%	2,500
23,000	38,000	3,350 + 28%	23,000
38,000	80,000	7,550 + 35%	38,000
80,000	.....	22,250 + 38.5%	80,000

Schedule Y—Married Taxpayers and Qualifying Widows and Widowers

Married Filing Joint Returns and Qualifying Widows and Widowers

Use this schedule if you checked **Filing Status Box 2 or 5** on Form 1040—

If the amount on Form 1040, line 36 is: Over—	But not over—	Enter on Form 1040, line 37	of the amount over—
$0	$3,000	.....11%	$0
3,000	28,000	$330 + 15%	3,000
28,000	45,000	4,080 + 28%	28,000
45,000	90,000	8,840 + 35%	45,000
90,000	.....	24,590 + 38.5%	90,000

Married Filing Separate Returns

Use this schedule if you checked **Filing Status Box 3** on Form 1040—

If the amount on Form 1040, line 36 is: Over—	But not over—	Enter on Form 1040, line 37	of the amount over—
$0	$1,500	.....11%	$0
1,500	14,000	$165 + 15%	1,500
14,000	22,500	2,040 + 28%	14,000
22,500	45,000	4,420 + 35%	22,500
45,000	.....	12,295 + 38.5%	45,000

[FR Doc. 87-14096 Filed 6-23-87; 8:45 am]
BILLING CODE 4830-01-C

Sunshine Act Meetings

Federal Register
Vol. 52, No. 121
Wednesday, June 24, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 9:00 a.m., Tuesday, June 30, 1987.

PLACE: Filene Board Room, 7th Floor, 1776 G Street NW., Washington, DC 20456 (202) 357–1100.

STATUS: Open.

MATTER TO BE CONSIDERED:

1. Consideration of State Requests for Exemptions from NCUA Lending Rules.

RECESS: 9:25.

TIME AND DATE: 9:30 a.m., Tuesday, June 30, 1987.

PLACE: Filene Board Room, 7th Floor, 1776 G Street NW., Washington, DC 20456 (202) 357–1100.

STATUS: Closed.

MATTER TO BE CONSIDERED:

1. Personnel Actions. Closed pursuant to exemptions (2) and (6).
2. Request for Exemption from § 701.21(h)(2)(ii) of the NCUA Rules and Regulations and Delegations of Authority. Closed pursuant to exemptions (2)(8) and (9)(A)(ii).

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 357–1100.

Becky Baker,

Secretary of the Board.

[FR Doc. 87–14457 Filed 6–22–87; 1:58 pm]

BILLING CODE 7535–01–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

SUMMARY: This notice sets forth the agenda of a forthcoming meeting of the National Museum Services Board. This notice also describes the functions of the Board. Notice of this meeting is required under the Government in the Sunshine Act (Pub. L. No. 94–409) and regulations of the Institute of Museum Services, 45 CFR 1180.84.

TIME AND DATE: 9:00 a.m., Friday, July 17, 1987.

STATUS: Open and Closed.

ADDRESS: 1100 Pennsylvania Avenue, NW., Room MO–14, Washington, DC 20506 (202) 786–0536.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Buck, Executive Assistant to the National Museum Services Board, Room 510, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. (202) 786–0536.

SUPPLEMENTARY INFORMATION:

The National Museum Services Board is established under the Museum Services Act, Title LL of the Arts, Humanities, and Cultural Affairs act of 1976, Pub. L. 94–462. The Board has responsibility for the general policies with respect to the powers, duties, and authorities invested in the Institute under this Title. Grants are awarded by the Institute of Museum Services after review by the Board.

The meeting of July 17, 1987 will be open to the public from 9:00 a.m. through discussion of agenda item number V. The meeting will be closed to the public for a review of agenda item VI pursuant to paragraphs 6, 9(B), and other relevant provisions of subsection (c) of section 552 of Title 5, United States Code because the Board will consider information that may disclose: Information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of privacy; and information the disclosure of which might significantly impede implementation of proposed agency actions related to the grant award process.

National Museum Services Board

July 17, Meeting Agenda

I. Approval of Minutes of April 21, 1987 Meeting
II. Director's Report
III. Legislative and Regulatory Update
IV. Other Business
V. Program Report
  A. Museum Assessment Program
  B. Conservation Support Program
  C. General Operating Support
VI. Closed Session

Dated: June 16, 1987.

Lois Burke Shepard,

Director.

[FR Doc. 87–14380 Filed 6–22–87; 11:11 am]

BILLING CODE 7036–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of June 22, 29, July 6, and 13, 1987.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of June 22

Monday, June 22

3:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 (& 6)

Thursday, June 25

10:00 a.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Final Rule to Modify the Requirement that Power Reactor Licensees Maintain Property Damage Insurance (Tentative)

Week of June 29—Tentative

Tuesday, June 30

10:00 a.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)
2:00 p.m.
Discussion/Possible Vote on Full Power Operating License for Braidwood–1 (Public Meeting)

Wednesday, July 1

8:30 a.m.
Discussion/Possible Vote on Full Power Operating License for Nine Mile Point-2 (Public Meeting) (Tentative)
10:00 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)
2:00 p.m.
Discussion of Management-Organization and internal Personnel Matters (Closed—Ex. 2 & 6)

Week of July 6—Tentative

Wednesday, July 8

10:00 a.m.
Discussion/Possible Vote on Full Power Operating License for Beaver Valley–2 (Public Meeting) (Tentative)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of July 13—Tentative

Wednesday, July 15

10:00 a.m.
Briefing on Mark I Containments (Public Meeting) (Tentative)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Robert McOsker (202) 634–1410.

Robert B. McOsker,
Office of the Secretary.
June 18, 1987.

[FR Doc. 87–14378 Filed 6–22–87; 10:04 am]
BILLING CODE 7590-01-M

Corrections

Federal Register
Vol. 52, No. 121
Wednesday, June 24, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

International Trade Administration

Consolidated Decision on Applications for Duty-Free Entry of Extracorporeal Shock Wave Lithotripters; Mayo Foundation, University of Pennsylvania et al.

Correction

In notice document 87-13533 beginning on page 22512 in the issue of Friday, June 12, 1987, make the following correction:

On page 22512, in the first column, in the fourth line from the bottom, the Docket number should read "86-062".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS-42002E; FRL-3214-8]

Fluoroalkenes; Final Test Rule

Correction

In rule document 87-12828 beginning on page 21516 in the issue of Monday, June 8, 1987, make the following correction:

On page 21520, in the second column, in the fourth complete paragraph, in the 13th line, "C_{39}" should read "C_9".

BILLING CODE 1505-01-DS4734

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 247 and 886

[Docket No. R-87-1328; FR-1950]

Termination of Tenancy—Section 8 Housing Assistance Payments Program—Special Allocations

Correction

In proposed rule document 87-10023 beginning on page 16403 in the issue of Tuesday, May 5, 1987, make the following corrections:

1. On page 16404, in the first column, in the 12th line, "deleted" should read "delete".

2. On the same page, in the first column, in the second complete paragraph, in the 20th line, "revising" should read "revised".

3. On the same page, in the second column, in the 22nd line, "existence" was misspelled.

4. On the same page, in the second column, in the second complete paragraph, in the 13th line, "(*1*)" should read "(*l*)".

5. On page 16407, in the second column, in the "Authority", in the fourth line, "1715*1*" should read "1715*l*".

§ 247.2 [Corrected]

6. On the same page, in the second column, in § 247.2(e)(1), in the first line, "Below market" should read "Below-market"; in § 247.2(e)(2), in the second line, remove "National".

§ 886.102 [Corrected]

7. On the same page, in the third column, in § 886.102, under *Eligible project or project.*, in the 7th line, "and" should read "any"; in the 13th line, "assistance" was misspelled.

§ 886.327 [Corrected]

8. On page 16408, in the second column, in § 886.327(a)(1), in the fourth line, "lease" should read "least".

9. On the same page, in the third column, in § 886.327(a)(3), in the fourth line, "case a" should read "case of a".

10. On the same page, in the same column, in § 886.327(b)(3), in the fourth line, "responsible" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-87-1668; FR-2299]

Transitional Housing Demonstration Program; Notice of Final Guidelines

Correction

In notice document 87-13134 beginning on page 21743 in the issue of Tuesday, June 9, 1987, make the following corrections:

1. On page 21743, in the third column, in the contents entry for D.2.(iv), in the first line, "supporting" should read "supportive".

2. On page 21744, in the second column, in the second paragraph, in the ninth line, insert "proposed" before "guidelines".

3. On the same page, in the third column, in the fifth line, "would" was misspelled.

4. On page 21746, in the third column, in the third complete paragraph, in the 14th line, "least" should read "best".

5. On page 21747, in the second column, in the second line, the third word should read "recipients".

6. On the same page, in the third column, in the 19th line, "we" should read "We".

7. On page 21749, in the first column, in the fourth complete paragraph, in the 14th line, the first word should read "source"; in the 20th line, "as" should read "an".

8. On page 21753, in the first column, in the ninth line from the bottom, insert "and" after "Housing".

9. On page 21757, in the first column, in the fifth line, the paragraph cite should read "IV.D.3.(iii)".

10. On page 21761, in the first column, in the third line from the bottom, the second word should read "Developmental".

11. On page 21762, in the third column, in the second paragraph, in the third line, "filed" should read "field"; in the 15th line, "change" should read "exchange".

12. In the same column, in the third paragraph, in the sixth line, insert "not" after "amount".

13. On page 21763, in the third column, in the seventh line from the bottom, the third word should read "provision".

14. On page 21764, in the first column, in the second complete paragraph, in the eighth line, "state" should read "stage".

15. On the same page, in the second column, in paragraph (c), in the fourth line, the first word should read "within".

16. On the same page, in the third column, in the 11th line from the bottom, between "the" and "clause", insert "Program. HUD will also consider the strength of the commitments under this".

17. On page 21765, in the second column, in paragraph (b), in the seventh line, "approximately" should read "appropriately"; in the ninth line, "are are" should read "and are".

18. On page 21769, in the first column, in paragraph (b)(2), in the definition *Elevated blood lead level or EBL*, in the fourth line, "d1" should read "dl".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 159

[Docket No. 25123; Amdt. No. 159-30]

Carriage of Weapons and Other Dangerous Objects at Washington National Airport and Washington Dulles International Airport; Restricted Areas

Correction

In rule document 87-12774 beginning on page 21502 in the issue of Monday, June 8, 1987, make the following corrections:

1. On page 21503, in the third column, in the second complete paragraph, in the sixth line, "are" should read "area".

§ 159.79 [Corrected]

2. On page 21504, in the second column, in § 159.79(a)(1)(i), in the third line, "or" should read "of".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 159

[Docket No. 25204; Amdt. No. 159-31]

Charges for Use of Metropolitan Washington Airports

Correction

In rule document 87-13063 beginning on page 21908 in the issue of Tuesday, June 9, 1987, make the following correction:

On page 21910, in the second column, in the ninth line, insert "expected" before "economic".

BILLING CODE 1505-01-D

federal register

Wednesday
June 24, 1987

Part II

Department of Energy

Western Area Power Administration

Navajo Generating Station; Proposed Allocation Criteria and Extension of Time for Submitting Applications for Power and Proposed Interim Navajo Power Rate; Notices

DEPARTMENT OF ENERGY

Western Area Power Administration

Proposed Allocation Criteria and Extension of Time for Submitting Applications for Power from the Navajo Generating Station

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed allocation criteria and extension of time for submitting applications for power from Navajo Generating Station.

SUMMARY: Surplus capacity and associated energy (Navajo surplus) available from the Navajo Generating Station (Navajo) will be offered by Western for an interim period under an Interim Power Marketing Plan (Interim Plan) developed pursuant to the Hoover Power Plant Act of 1984 (98 Stat. 1333) (Act). The Navajo surplus will be allocated based on the allocation criteria described in this notice. Applicants applying for the Navajo surplus pursuant to this notice will be evaluated for an allocation in accordance with the allocation criteria.

The Boulder City Area Office of the Western Area Power Administration (Western) requested applications for the power from Navajo in a **Federal Register** notice (49 FR 11873) on March 28, 1984, and in a **Federal Register** notice (51 FR 30116) on August 22, 1986. In the August 22 notice interested parties were invited to submit applications by September 22, 1986. Subsequently, on October 1, 1986, a **Federal Register** notice (51 FR 35033) was published extending the time for submitting applications to October 24, 1986. In the August 22 notice, each existing and new applicant was asked to indicate: (1) The percentage of power requested if energy was made available at a proposed Navajo rate of 26.59 mills per kilowatthour and capacity at $10 per kilowattmonth for the summer season, and energy at 24.51 mills per kilowatthour and no charge for capacity for the winter season; and (2) the percentage of power requested if the energy is made available at an alternative rate of 15, 20, 30, or 35 mills per kilowatthour. Western is revising its proposed Navajo rate and has determined that the period for submitting applications for Navajo surplus should be reopened to allow time for requests for Navajo surplus at the revised proposed Navajo rates.

New applications requesting Navajo surplus must include the amount of power requested, expressed as a percentage of the amount of estimated capacity available, and the applicant profile data requested in this notice. Specific instructions on the application are outlined in the "Request for Applications" section of this notice. Western also requests those entities which previously submitted applications to Western for Navajo surplus to amend their application by requesting Navajo surplus as a percentage of the amount of capacity available from Navajo at the revised proposed Navajo rates. Those entities are not required to submit additional applicant profile data. Additional supplemental information may be submitted if the entity feels it is necessary to update the applicant profile data previously submitted.

Western will immediately begin accepting and reviewing the applications requesting Navajo surplus. After applying the allocation criteria contained herein, Western will publish in a **Federal Register** notice the final allocation of Navajo surplus under the Interim Plan. Interested parties are invited to submit comments concerning the proposed allocation criteria. Western will review and consider each comment prior to adopting the final allocation criteria and allocations.

DATES: A public information forum will be held on July 7, 1987, beginning at 9 a.m. Interested parties may submit written comments or make oral comments concerning the proposed allocation criteria at a public comment forum to be held on July 14, 1987, beginning at 1 p.m. Comments concerning the proposed application Criteria and the applications for Navajo surplus available under the Interim Plan will be accepted until July 24, 1987. Comments and applications postmarked after that date will not be accepted.

ADDRESS: The public information forum and the public comment forum will be held at the Phoenix Hilton Hotel, Central and Adams, Phoenix, Arizona, on the dates cited above. Comments and applications should be submitted to: Mr. Thomas A. Hine, Area Manager, Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, NV 89005.

FOR FURTHER INFORMATION CONTACT: Mr. Earl W. Hodge, Acting Assistant Area Manager for Power Marketing, Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, NV 89005, (702) 477-3255.

SUPPLEMENTARY INFORMATION: Section 107 of the Act provides that capacity and energy associated with the United States interest in Navajo, which is in excess of the pumping requirements of the Central Arizona Project (CAP), and any such needs for desalting and protective pumping facilities as may be required under section 101(b)(2)(B) of the Colorado River Basin Salinity Control Act of 1974 shall be marketed and exchanged by the Secretary of Energy. Such marketing must be pursuant to a plan adopted by the Secretary of the Interior, directly to, with, or through the Arizona Power Authority and/or other entities having the status of preference entities under the reclamation law in accordance with the preference provisions of section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485(h)) and as provided in part IV, section A of the "General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects" (General Criteria) (48 FR 20872).

The Act requires that the Secretary of the Interior adopt such a plan after consultation with the Central Arizona Water Conservation District (CAWCD), the Governor of Arizona, and the Secretary of Energy. Work is continuing on a long-range Navajo marketing plan by representatives of the Bureau of Reclamation (Reclamation), the CAWCD, the Governor of Arizona, and the Secretary of Energy. However, early in the process, it became apparent that an interim power marketing plan was necessary to support funding obligations of the CAWCD prior to establishing a long-range plan. Therefore, an Interim Plan was developed and adopted by the Commissioner of Reclamation on March 17, 1986.

Reclamation forwarded the Interim Plan to the Administrator of Western by letter dated April 14, 1986, for implementation. The Interim Plan will terminate as provided in a long-term Navajo power marketing plan or on September 30, 1990.

The marketing of the Navajo surplus by Western during the initial delivery and pump-testing period of the CAP and during the pre-New Waddell period is provided by the Interim Plan. The New Waddell Project is a proposed regulatory storage feature of CAP that would give Reclamation operational flexibility to increase winter season pumping and reduce summer season pumping, thereby providing a marketable power resource during the peakload season of the Southwest United States.

The Interior Plan describes the quantities and classes of service that will be available under the Interim Plan. The Interim Plan is appended as Appendix A and includes an Exhibit 1 Summary entitled "Interim Navajo Power Marketing Plan, Surplus/Shortage Pumping Power Profile (Pre-New Waddell)," which summarizes the

estimated maximum capacity and energy available (by water year) through 1990 and other future years before regulatory storage is completed. Applications are being requested for the quantities and classes of service described in section III of the Interim Plan. Applications will be evaluated in accordance with the Allocation Criteria section set out below.

Changes to August 22, 1986, Federal Register Notice

The August 22 notice provided that Arizona entities which are entitled preference to Navajo surplus would have first right-of-refusal for 50 percent of their power allocation under the Interim Plan when the long-range Navajo marketing plan is adopted.

This provision has been deleted from this notice at the request of preference entities in Arizona which applied for the Navajo surplus.

In this notice, the applicant is requested to indicate the percentage of power requested at the revised proposed Navajo rates only. Power requests at alternative rates have been deleted.

Additionally, comments were received by Western from an applicant that it was unclear as to what the product is; specifically, how will Western determine the percentage of power for each contractor, does Western intend to market the annual net energy sums shown in the Exhibit 1 Summary, do energy deliveries for CAP pumping take precedence over Navajo surplus deliveries, and will the contracts continue after termination of the Interim Plan? Western has included explanations of these issues in the "Request for Applications" section of this notice.

In summary, Western will allocate the Navajo surplus on a percentage of capacity basis based on the amounts requested by the eligible applicants. The amounts Western intends to market will be the estimated amounts provided in the Exhibit 1 Summary. Western intends to market the annual net energy sums. Negative amounts shown in the Exhibit 1 Summary are considered as zeros in determining the net sums of energy to be marketed. Curtailment of Navajo output shall affect CAP pumping schedules and Navajo surplus sales proportionately in any given hour. The contracts will be in effect as long as the Interim Plan is in effect.

Executive Order 12291

Under the provisions of section 3 of Executive Order 12291, dated February 17, 1981, a regulatory impact analysis must be made prior to the publication of a major rule. This proposal is of a technical nature and considered to be a nonmajor rule within the meaning of the Executive order. Western has an exemption from sections 3, 4, and 7 of Executive Order 12291; accordingly, no clearance of these regulations by the Office of Management and Budget (OMB) is required.

National Environmental Policy Act

In compliance with the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality regulations, and the Department of Energy guidelines for compliance with NEPA, published in the **Federal Register** on February 23, 1982 (47 FR 7976), Western conducts environmental evaluations of certain rate and allocation actions. Due to the nature of this proposed allocation criteria and extension of time for submitting applications for power from the Navajo Generating Station, an environmental assessment will be prepared and copies will be available to interested persons upon request.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*), each agency, when required to publish a general notice of proposed rule, shall prepare for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, this proposal relates to particular electric services and rates provided by Western. Under 5 U.S.C. 601(2), such rules and practices relating to services are not considered "rules" within the meaning of this Act. Accordingly, no regulatory flexibility analysis is required.

Paperwork Reduction Act of 1980

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) requires that certain information collection requirements be approved by the OMB before information is demanded of the public. OMB has issued a final rule on the Paperwork Burdens on the Public (48 FR 13666) dated March 31, 1983. Ample opportunity is provided for the interested public to participate in the development of the proposed allocation criteria and extension of time for submitting applications for power from the Navajo Generating Station. Nevertheless, this is at their sole election. There is no requirement that members of the public participating in the development of the proposed allocation criteria and extension of time for submitting applications for power from the Navajo Generating Station supply information about themselves to the Government. It follows that the proposed allocation criteria and extension of time for submitting applications for power from the Navajo Generating Station are exempt from the Paperwork Reduction Act.

Allocation Criteria

Each application for an allocation of Navajo surplus will be reviewed for conformance with the Interim Plan and the "Conformed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects" (49 FR 50582) (Conformed Criteria). For those applicants qualifying under the Interim Plan and the Conformed Criteria, the following additional factors are proposed for usage in the allocation of the Navajo surplus:

1. Federal power resources available, or expected to be available, to the applicant after May 31, 1987.
2. Utility status as of the date of this **Federal Register** notice.
3. Ability to receive the power by dynamic signal at a Navajo designated point-of-delivery by October 1, 1987.
4. Western will not allocate less than 1.0 megawatt (MW) to any applicant.

Western proposes to adopt the first factor listed above to ensure the widespread use of the Federal resource, in accordance with Western policy. The second factor, a requirement for utility status, was contained in the General Criteria and was not changed by the publication of the Conformed Criteria. The factor is repeated in this notice for ease of reference. The General Criteria apply to the marketing of Navajo surplus. The reasons for the factor were discussed at length in those Criteria at 48 FR 20878, and that discussion is incorporated herein by reference. The third factor proposed by Western requires an allottee to have appropriate transmission facilities or a contractual transmission arrangement in place by October 1, 1987, and will ensure that the Navajo resource will be utilized promptly. The fourth factor recognizes that operationally Western does not schedule power to entities in quantities of less than 1.0 megawatt.

In compliance with the Interim Plan and the Conformed Criteria, Western will first allocate Navajo surplus to preference entities within Arizona. If additional Navajo surplus is available after satisfying the power requests from the eligible Arizona preference entities, Western will allocate the remaining Navajo surplus to eligible entities in the order of priority specified in the Interim Plan and Conformed Criteria. If insufficient Navajo surplus is available to satisfy the requests of all the applicants within the priority group

being considered, Western will allocate the Navajo surplus pro rata to the eligible applicants within the priority group based on each applicant's capacity request as a percentage of the total capacity requested by the applicants within the priority group. If Western is unable to allocate all the available Navajo surplus, Western will market the Navajo surplus under short-term surplus, Western will market the Navajo surplus under short-term arrangements as provided in the Interim Plan.

Request for Applications

Western is requesting additional applications for power available from Navajo. Applications received in response to this notice will be considered along with the applications received in response to the "Request for Applications from the Navajo Generating Station" published in the **Federal Register** (51 FR 30116) on August 22, 1986, as amended in response to this **Federal Register** notice. First-time applicants and those entities that previously submitted applications to Western for Navajo surplus should provide the amount of power they are applying for, by season, expressed as a percentage of the maximum capacity estimated to be available in the following table 1:

TABLE 1

Period	Summer season MW	Winter season MW
1987	474	364
1988	395	333
1989	155	324
1990 & on	137	313

For example, in the 1987 summer season, approximately 474 MW is estimated to be available. If the applicant wants approximately 47 MW of capacity during the 1987 summer season, the applicant would request 10 percent of the power for the 1987 summer season.

The capacity amounts provided in table 1 are the peak capacity amounts estimated by Reclamation to be available, and are from the Exhibit 1 Summary to the Interim Plan. The Exhibit 1 Summary included in this notice provides estimated monthly capacity amounts and the energy amounts estimated to be available with the capacity. The amount of Navajo surplus to be marketed by Western will be based on these estimated amounts of capacity and energy. Negative amounts shown in the Exhibit 1 Summary are considered as zeros in determining the amounts of capacity and energy available.

The interim Navajo surplus will be allocated as a percentage of capacity basis based on amounts requested by eligible applicants. Contracts will be effective as long as the Interim Plan is in effect, and the contract will provide for a minimum notice period before the contract will be terminated. Navajo surplus power delivery will be made by dynamic signal. Contractors must be capable of accepting power under these arrangements. Curtailments of Navajo schedules shall affect CAP pumping schedules and Navajo surplus sales proportionally in any given hour. The actual power available may be more or less than estimated in the Exhibit 1 Summary. Each contractor would be entitled to their allocated percentage of any Navajo surplus. However, if the Navajo surplus available is more than estimated, each contractor will be obligated to take up to a 10 percent increase in the Navajo surplus that was estimated to be available to such contractor.

Each applicant (first-time and existing) should indicate the percentage of Navajo surplus requested if the Navajo surplus is made available at the revised proposed Navajo interim rate of 24.09 mills per kilowatthour and $5 per kilowattmonth for the summer season and 23.69 mills per kilowatthour (no charge per kilowattmonth) for the winter season. Entities requesting Navajo surplus for the first time pursuant to this notice are requested to submit the applicant profile data set out in this section. Those entitles with existing applications are not required to submit additional applicant profile data. Additional supplemental information may be submitted if the entity feels it is necessary to update the applicant profile data previously submitted.

The marketing area and eligibility criteria (including the order of priority for sales), contract provisions, conditions of delivery, and system reserve requirements are provided in section V of the Interim Plan. Additional conditions are described in the Conformed Criteria.

Section III of the Interim Plan identifies the quantities and classes of power that will be available under the Interim Plan. Applications for Navajo surplus are being requested for the power specifically identifed in subsection B of section III.

The application information must comply with the following applicant profile data as approved through June 30, 1989, by the Office of Management and Budget (OMB No. 1910–1200).

Applicant Profile Data

If an applicant is applying for power on behalf of another organization which is not member or subsidiary of the applicant, the applicant should provide a statement to that effect, which includes the reason(s) why the other organization is not applying for power on its own behalf. All items of information in the Applicant Profile Data should be answered as it prepared by the organization seeking the allocation of Federal power.

A. Applicant Organization

1. Organization name and address.

2. Name, address, title, and telephone number of person(s) who will represent the entity in dealing with Western.

3. Type of organization (municipality, rural electric cooperative, irrigation district, State agency, Federal agency, other). Parent organization, if applicable. Names of members, if applicable. Applicable law under which organization was established.

4. Organization's geographic service area. If readily available, submit a map of the service area and indicate the date the map was prepared.

5. Number and types of customers served and percentage of load: residential, commercial, industrial, agricultural, military base, etc.

B. Loads

1. Maximum demand (kW) and energy use (kWh) for each month for each year for the 3-year period of 1981, 1982, and 1983.

2. Daily peak demand for the peak week in the summer and winter seasons, 1982–83 (summer season, March-September; winter season, October-February).

C. Resources

1. Operating generating resources, if any, including for each resource, rated capacity, plant factor by month for the last 12 months, type of fuel, and location.

2. If the applicant's load is served wholly or partially by purchases from others, please provide for each purchase, the name of the power supplier, amounts of firm and nonfirm capacity and energy supplied under the contract, and the termination date.

D. Transmission

1. A brief description of the applicant's transmission and distribution system, including major interconnections.

2. Requested point(s) of delivery on Western's system, voltage of service

required, and capacity desired at each of the points of delivery.

3. Description of the transmission arrangements necessary to deliver power from the requested point(s) of delivery to the applicant's load. Please provide a single-line drawing of the applicant's service arrangements, if one is readily available.

E. Service Requested

1. The amount(s) and type(s) of service requested for each season expressed as a percentage of the power available. (Refer to the Exhibit 1 Summary to the Interim Plan.)

2. The date when the applicant can first use the service requested from Western.

F. Any Other Information the Applicant Wishes to Include.

G. The Signature and Title of an Appropriate Official Who Is Able to Attest to the Validity of the Information Submitted and Who Is Authorized to Submit the Application

All comments on the proposed allocation criteria and applications for Navajo surplus will be available for public review at the Boulder City Area Office 10 days after the comment and application periods end.

Issued in Golden, Colorado, June 17, 1987.

William H. Clagett,

Administrator.

Appendix A

The Interim Navajo Power Marketing Plan is being published as adopted. A summary of the Exhibit 1 to the Interim Plan is also included in this Appendix A.

Interim Navajo Power Marketing Plan

I. Purpose and Scope

Section 107 of the Hoover Plant Act of 1984, Public Law 98–381, requires that a Power Marketing Plan be developed to provide for the sale of the capacity and energy from the Central Arizona Project's share of the Navajo Generating Station that is surplus to the Project needs (Navajo surplus). Specifically, subsection 107(c) of this Act requires that a Power Marketing Plan be developed to provide for marketing and exchanges of electrical capacity and energy which are in excess of the pumping requirements of the Central Arizona Project (CAP) and any such needs for desalting and protective pumping facilities as may be required under Title I, to section 101(b)(2)(B) of the Colorado River Basin Salinity Control Act (Pub L. 93–320) (Salinity Control Act facilities).

This Interim Navajo Power Marketing Plan will provide for marketing of Navajo surplus during the initial delivery and pump-testing period of CAP operations and during the pre-New Waddell period. The long-range Navajo Marketing Plan which is presently under development will provide for the subsequent marketing of Navajo surplus.

A. This Interim Navajo Power Marketing Plan will maintain the obligation for the United States to use its entitlement to the Navajo resources to provide necessary power for the CAP pumping needs and Salinity Control Act facilities use. The Interim Plan will provide financial assistance to assure the timely construction and applicable repayment of CAP costs reimbursable by CAWCD. This plan is also designed to maximize the amount of capacity and energy available for sale as required by the Colorado River Basin Project Act of 1968. The estimated amounts of Navajo surplus were obtained from data contained in a report by the Bureau of Reclamation entitled "Central Arizona Project Power Marketing and Water Supply Study—October 1985." The attached Exhibit 1, entitled, "Surplus/Shortage Pumping Power Profile —Pre-New Waddell", summarizes the data to show the approximate capacity and energy available, by month, for the interim period.

B. This Interim Navajo Power Marketing Plan is consistent with section 107(d) of the Hoover Power Plant Act of 1984

This Interim Navajo Power Marketing Plan provides that Western Area Power Administration (Western) will work closely with the CAWCD and the Bureau of Reclamation on CAP and river operations. Western, working closely with CAWCD, will market the surplus Navajo capacity and energy under conditions similar to the existing layoff contracts, the Conformed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects (Criteria), and in accordance with the Navajo allocation process already in progress as announced in the **Federal Register** on March 28, 1984, at 49 FR 11873. Western will manage the marketing and exchange of the Navajo surplus under this Interim Power Marketing Plan. This plan will terminate as provided in the long-range Navajo Power Marketing Plan or on September 30, 1990. Revenues from the sale and exchange of Navajo surplus power and energy derived from added-rate component(s) set forth in Article V of this plan will be utilized and assigned to make repayment and establish reserves for repayment of $175,000,000 (or more) of funds advanced by or for CAWCD for construction of authorized features of the CAP. These revenues, together with such revenues under the long-range Navajo Marketing Plan should be sufficient to make repayment and establish reserves for repayment of the funds advanced by or for CAWCD for the construction of authorized CAP features and to provide financial assistance for repayment of CAP costs reimbursable by CAWCD.

During the Interim Marketing period, optimization of Navajo surplus will be achieved primarily through delivering maximum amounts of water in the daytime from aqueduct storage and then recharging that storage to the maximum extent possible by utilizing off-peak pumping.

II. Authorities

A. Federal reclamation laws including, but not limited to, the Colorado River Basin Project Act (Pub. L. 90–537), and the Hoover Power Plant Act (Pub. L. 98–381).

B. Rules, regulations, and agency agreements of the United States Department of Interior, Bureau of Reclamation, and the United States Department of Energy, Western Area Power Administration, issued or made pursuant to applicable law.

III. Quantities and Classes of Power

A. Classes of services have been defined based upon the following principles. 1. Excess capacity and energy is defined as that amount in excess of the pumping requirements of the CAP and any such needs for Salinity Control Act facilities use. Under this Plan, such excess capacity and energy will be offered for sale and for exchange. It is expected that the Salinity Control Act facilities will not create a demand on Navajo surplus during the term of the Interim Plan. Accordingly this Interim Plan assumes that there will be no Navajo surplus furnished to the Salinity Control Act facilities.

2. A feature of the proposed CAP operation during the interim Navajo marketing period is daily energy management as well as weekly management. Pumping will be done during off-peak hours to the extent possible in order to maximize daily on-peak availability of surplus Navajo capacity and energy. For the purposes of this interim plan, a typical day (Monday through Saturday) consists of 12 hours of "on-peak" time and 12 hours of "off-peak" time. The on-peak summer period is typically from 9:00 a.m. to 9:00 p.m. The on-peak winter day periods are typically from 5:00 a.m. to 10:00 a.m. and from 3:00 p.m. to 10:00 p.m.

3. Western working closely with CAWCD and the Bureau of Reclamation

will annually modify Exhibit I to reflect anticipated surplus Navajo generation for the upcoming year considering anticipated Navajo availability and anticipated pumping requirements.

B. Classes. 1. Capacity and energy marketed in the interim period shall be offered as contingent Navajo power as has been the case in the present layoff contracts. Any Navajo power reserved for pumping shall also be contingent power. Any call for curtailment of Navajo schedules shall affect pump schedules and surplus power sales proportionally in any given hour.

2. Capacity and energy exchanges will be used during the interim marketing period to the extent possible in order to provide for monthly shortages and to provide for CAP pump testing.

3. Any Navajo surplus that is not marketed or exchanged under 1 or 2 above, will be marketed by Western under short-term arrangements.

IV. Contract Term

Capacity and energy shall be marketed or exchanged under terms of contracts which will terminate when the long-range plan is implemented.

V. Ratesetting Methodology

Rates shall be determined by Western Area Power Administration in accordance with the accepted methods contained in existing layoff contracts except that there shall also be additional rate components as follows:

Additional rate component(s) will be established (in addition to components currently collected) pursuant to provisions of section 107 of the Hoover Power Plant Act of 1984 (Act). The revenues from the additional rate components will be collected and may be deposited in an escrow account established pursuant to an escrow agreement entered into between the Bureau of Reclamation and CAWCD, to implement section 107 of the Act. Additional rate components shall not exceed amounts which, when added to the rate component currently collected, allow for appropriate savings to the contractor as required by section 107(d) of the Act.

A. Market area and eligibility. 1. Sales will be offered, in the following order of priority, to entities having the status of preference entities under the provisions of section 9(c) of the Reclamation Project Act of 1939 and as provided in part IV, section A, of the Criteria.

a. Preference entities within Arizona.

b. Preference entities within the Boulder City Marketing Area.

c. Preference entities in adjacent federal marketing areas.

d. Nonpreference entities in the Boulder City Marketing Area.

B. Contract provisions. Contract provisions shall comply with Western's Conformed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects (Criteria) published in the **Federal Register** on December 28, 1984, at 49FR50582.

C. Conditions of delivery. 1. *Point of Delivery.* Power and energy sold under this Plan shall be delivered to purchasers at any of the following Navajo transmission system switchyards:

Westwing Switchyard
McCullough Switchyard

Any necessary transmission service beyond these points will be the responsibility of the contractor.

2. *Voltage.* All deliveries shall be at 500 kV except deliveries to Westwing Switchyard shall be at 230 kV.

3. *Operation procedures/power accounting.* Operations and accounting procedures to be in effect through the interim period shall be those previously employed for layoff contracts, except that Western shall have authority to alter such procedures to effect improved operations.

4. *System losses.* As per existing layoff principles.

D. System reserve requirements. All power and energy sold under this Plan shall be contingent upon the operation of the Navajo Generating Station. Any curtailment of capacity at the station shall be proportionally deducted from capacity entitlements of each purchaser and the CAP pumps.

VI. Consultation

The Interim Navajo Power Marketing Plan is deemed most acceptable in accordance with section 107(c) of the Hoover Power Plant Act of 1984 as evidenced by the attached letters of concurrence from the Western Area Power Administration (Secretary of Energy), the Governor of Arizona, and the Central Arizona Water Conservation District.

Dated: March 17, 1986.

Adopted by:

C. Dale Duvall,

Commissioner of Reclamation.

BILLING CODE 6450-01-M

Exhibit 1 Summary
Interim Navajo Power Marketing Plan
SURPLUS/SHORTAGE PUMPING POWER PROFILE (PRE-NEW WADDELL)

1987 WATER YEAR	LINE UNITS	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUNE	JUL	AUG	SEP	ANNUAL TOTAL
SURPLUS TO CAP														
Onpeak Capacity	MW	364.5	364.5	354.8	341.7	321.8	296.7	273.8	474.1	400.1	292.3	291.0	451.4	
Onpeak Energy	GWH	129.6	136.2	149.5	143.6	79.6	78.4	78.6	116.2	105.1	76.1	72.8	118.5	1284.3
Offpeak Capacity	MW	364.5	364.5	354.8	253.7	189.8	76.7	9.8	254.1	180.1	160.3	159.0	188.4	
Offpeak Energy	GWH	172.8	181.5	199.3	166.5	58.4	23.8	-0.2	71.5	46.0	39.1	38.6	50.9	1048.2
1988 WATER YEAR														
SURPLUS TO CAP														
Onpeak Capacity	MW	313.4	333.4	326.8	325.3	301.8	214.8	103.2	395.7	180.1	119.7	119.9	232.3	
Onpeak Energy	GWH	123.1	116.7	140.6	138.4	73.8	81.8	25.2	106.7	45.6	20.0	20.1	52.1	944.2
Offpeak Capacity	MW	137.4	245.4	194.8	193.3	125.8	-5.2	-28.8	175.7	136.1	119.7	119.9	144.3	
Offpeak Energy	GWH	107.9	122.3	145.4	141.4	30.8	9.1	-26.2	41.3	27.9	21.9	21.9	20.3	664.0
1989 WATER YEAR														
SURPLUS TO CAP														
Onpeak Capacity	MW	293.9	324.2	316.5	311.2	276.7	142.7	-80.9	155.8	103.7	106.9	107.6	101.0	
Onpeak Energy	GWH	77.6	104.1	137.3	135.6	109.2	62.6	-20.7	32.6	14.5	15.9	16.1	13.7	698.3
Offpeak Capacity	MW	73.9	192.2	184.5	179.2	12.7	-33.3	-80.9	111.8	103.7	106.9	107.6	101.0	
Offpeak Energy	GWH	28.6	98.0	132.8	126.1	60.0	8.0	-32.3	18.5	14.6	16.4	16.7	13.5	500.8
1990 & ON WATER YEAR														
SURPLUS TO CAP														
Onpeak Capacity	MW	282.1	313.9	311.5	303.2	276.3	137.6	-94.1	84.2	88.4	92.4	93.7	86.2	
Onpeak Energy	GWH	111.5	100.9	135.7	133.0	112.4	39.2	-49.4	8.7	9.8	11.3	11.7	9.1	633.9
Offpeak Capacity	MW	62.1	181.9	179.5	127.2	56.3	-38.4	-94.1	84.2	88.4	92.4	93.7	86.2	
Offpeak Energy	GWH	70.3	89.1	130.8	119.8	72.2	-27.0	-70.6	6.8	8.3	10.2	10.8	7.3	428.0

[FR Doc. 87-14391 Filed 6-22-87; 10:49 am]
BILLING CODE 6450-01-C

Proposed Interim Navajo Power Rate; Navajo Generating Station, Arizona

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of revised proposed rate and reopening of comment period.

SUMMARY: The Western Area Power Administration (Western) published a notice of Proposed Navajo Interim Power Rates and Request for Comments in the **Federal Register** (51 FR 30120) on August 22, 1986. By **Federal Register** (51 FR 35557), October 6, 1986, Western announced the public comment forum which was held on November 7, 1986. The August 22 notice invited interested parties to submit to Western comments concerning the rate methodology and proposed rates within 90 days of that notice and at the public comment forum. Western received several comments regarding the proposed Navajo Generating Station interim power ratemaking methodology and rates, and has determined that it is in the best interest of all parties to revise the proposed ratemaking methodology and rates.

This notice contains the revised proposed ratemaking methodology and proposed rates. The ratemaking methodology adopted by Western will be effective as long as the Interim Navajo Power Marketing Plan (Interim Plan) is in effect.

Interested parties are invited to submit comments concerning the revised proposed ratemaking methodology and rates. Western will review and consider each comment prior to adopting the ratemaking methodology and rates for power marketed under the Interim Plan.

DATES: Interested parties may submit written comments or make oral comments concerning the revised proposed ratemaking methodology and rates at the public comment forum to be held on July 14, 1987, beginning at 9 a.m. All written comments on the proposed ratemaking methodology and rates must be submitted on or before July 24, 1987.

ADDRESSES: The public comment forum will be held at the Phoenix Hilton Hotel, Central and Adams, Phoenix, Arizona, on the date cited above. Written comments concerning the proposed ratemaking methodology and rates should be sent to: Mr. Thomas A. Hine, Area Manager, Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, NV 89005.

FOR FURTHER INFORMATION CONTACT: Mr. Earl W. Hodge, Acting Assistant Area Manager for Power Marketing, Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, NV 89005, (702) 477–3255.

SUPPLEMENTARY INFORMATION: The United States acquired the right to 24.3 percent of generation available at the Navajo Generating Station (Navajo) for use by the Central Arizona Project (CAP). The CAP is a Bureau of Reclamation (Reclamation) multipurpose water resource development and management project in Arizona. During the construction of CAP, the United States entitlement to Navajo power was sold on an interim basis to various public and private utilities (layoff). The layoff contracts were subject to withdrawal of power as needed by the United States. CAP construction is nearing completion and notice of withdrawal was given to all layoff contractors. The layoff contracts terminated on May 31, 1987.

In 1972, Reclamation contracted with the Central Arizona Water Conservation District (CAWCD) for delivery of water and repayment of the costs of CAP. The contract provided that CAWCD would assume the repayment responsibility for specific CAP costs identified in the contract.

Section 107 of the Hoover Power Plant Act of 1984 (98 Stat. 1333) (Act) provides that capacity and energy associated with the United States interest in Navajo, which is in excess of the pumping requirements of CAP and any such needs for desalting and protective pumping facilities as may be required under section 101(b)(2)(B) of the Colorado River Basin Salinity Control Act of 1974 (43 U.S.C. 1571, *et seq.*) (Navajo surplus), shall be marketed and exchanged by the Secretary of Energy. Section 107(c) provides that a plan be adopted by the Secretary of the Interior to provide for the marketing and exchanging of Navajo surplus. Work is continuing on a long range Navajo marketing plan. However, early in the process, it became apparent that an interim power marketing plan was necessary to support funding obligations of the CAWCD prior to establishing a long-range plan. Therefore, an Interim Plan was developed and adopted by the Commissioner of Reclamation on March 17, 1986.

The Interim Plan provides for the interim marketing of the Navajo surplus until terminated as provided by a long-range Navajo Power Marketing Plan or on September 30, 1990.

Until the final allocation and rates are adopted under the Interim Plan, contracts for the Navajo surplus for the interim period will be delayed. In the meantime, Western will market the Navajo surplus under short-term arrangements.

The rates developed pursuant to the Interim Plan are to provide financial assistance in the repayment of applicable CAP costs reimbursable by CAWCD, and establish reserves for repayment to CAWCD of funds advanced for construction of CAP features as provided in section 107 of the Act.

Section V of the Interim Plan provides that Western will determine the rates for Navajo surplus in accordance with accepted methods contained in the layoff contracts except that there shall also be additional rate components established pursuant to provisions of the Act.

Western developed a ratemaking methodology pursuant to the Interim Plan and published the proposed ratemaking methodology and rates in the **Federal Register** (51 FR 30120) on August 22, 1986. The rates proposed in that **Federal Register** notice called for a capacity charge for the summer season only. The proposed capacity charge was $10 per kilowattmonth. The proposed energy rates were 26.59 mills per kilowatthour for the summer season and 24.51 mills per kilowatthour for the winter season. Except for those changed discussed in this document, the ratemaking methodology is essentially the same as published on August 22. After review and consideration of the comments received relevant to the proposed ratemaking methodology and proposed rates, Western has developed a revised proposed ratemaking methodology and rates, and this notice reflects those revisions. A discussion of the major comments received is included in the "Discussion" section which follows. The "Discussion" section also includes a discussion of the revisions made to the original proposed ratemaking methodology and rates.

Discussion

A number of the commentors indicated that the proposed ratemaking methodology and rates do not meet the requirements of section 107 of the Act, particularly the "appropriate savings to the contractor" and the "additional rate component" provisions. Additionally, commentors proposed that Western adopt an alternative rate based on each contractor paying 85 percent of its projected avoided costs for the upcoming season. Also, several

commenters indicated that the proposed capacity rate was too high.

Western believes it has provided for "appropriate savings to the contractor" by basing the proposed energy rates on average fuel replacement sales in Arizona, which reflect 85 percent decremental fuel costs for Arizona utilities. Furthermore, Western believes that the "additional rate component" has been incorporated, in part, into the revised proposed rates by providing for the limitation that the energy rates must be set at a level that would yield revenues not lower than 115 percent of production costs and transmission operation and maintenance costs. The "additional rate component" is reflected in the difference between the above-cited cost limitation and the selling price. This comports with the existing Navajo layoff rate development methodology.

The commentors recommendation for Western to adopt a rate proposal based on each contractor paying 85 percent of its projected avoided costs for the upcoming season would result in different rates to each contractor. Western does not believe that this method is an appropriate ratemaking methodology for the Navajo resource.

Western has reviewed the comments regarding the capacity rate and agrees that the $10 per kilowattmonth charge is inappropriate. Western has determined that a $5 per kilowattmonth charge during the summer season is more appropriate and reasonable when considering the existing capacity charge under the Navajo layoff contracts, other utilities' capacity charges, the type of resource which is being marketed, and the charges recommended by some commentors.

Additional comments were received regarding inconsistencies in the effective period of the rates. This notice provides that the revised proposed ratemaking methodology will be effective as long as the Interim Plan is in effect, which should clear up any ambiguity that might have existed.

A commentor also made some recommendations for modification of the calculation of the energy rates, and Western has adopted these recommendations. The commentor recommended that the energy rates be based on a 7-month summer season and a 5-month winter season, rather than two 6-month seasons which were used in calculating the proposed rates, and that any production cost limitation be applied after determining the seasonal rate.

In addition to the changes made to Western's August 22 proposal as a result of comments received, Western has recalculated the energy rates based on the average price of fuel replacement sales during the three preceding fiscal years (October 1983 through September 1986). In developing the proposed energy rates, Western relied on fuel replacement data from sales made in Arizona during the 1985 fiscal year. Since the development of the proposed rates, Western has developed a computer program detailing fuel replacement sales made by the Boulder City Area Office for the fiscal years 1984, 1985, and 1986. In accordance with the proposed ratemaking methodology, the energy rates will be based on average price of fuel replacement sales during the three preceding fiscal years. Three years of data are now available, and the revised energy rates have been calculated based on the average price of fuel replacement sales in Arizona during the preceding 3-year period.

Also, the projected energy sales which are used to determine the mills per kilowatthour are based on the estimated energy available from June 1, 1987, to September 30, 1990 (rather than the October 1, 1986, to September 30, 1990, time period that was used to calculate the proposed rates). Since the Interim Plan did not become effective until June 1, 1987, this more accurately reflects the energy amounts estimated to be available during the interim period.

Western has modified the ratemaking methodology language to include a description of what "production costs" will be based on and has also provided that the operation and maintenance costs of the transmission systems needed to deliver the Navajo surplus must be recovered. In reviewing the 3-year average fuel replacement sales in the States covered by the Boulder City marketing area, it appears that Arizona sales are reflective of the sales in the Boulder City marketing area; therefore, Western has determined that it is appropriate to use Arizona fuel replacement sales as the basis for the revised proposed energy rates. Accordingly, the ratemaking methodology has been changed to state that the energy rates will be based on fuel replacement sales in Arizona only. No other significant changes have been made to Western's proposed ratemaking methodology published in the **Federal Register** (51 FR 30120) on August 22, 1987.

Some commentors supported Western's proposed rates and stated that the proposed rates were consistent with the Act. One commentor urged that Western enter into contracts at the proposed rates and any remaining power not contracted be sold on a short-term basis. Western agrees with the concept proposed by this commentor; however, Western believes that the availability of 3 years of data on fuel replacement sales in Arizona and some of the comments received warrant publication of revised proposed rates.

The setting of a Navajo interim rate has been determined to be a major rate adjustment as defined by the "Procedures for Public Participation in Power and Rate Adjustments and Extensions" (10 CFR 903) published in the **Federal Register** on September 18, 1985. Those regulations establish the procedures for the development of power and transmission rates, for providing opportunities for interested members of the public to participate in the development of such rates, for confirmation, approval, and placement in effect on an interim basis of such rates, and for submissions of such rates to the Federal Energy Regulatory Commission.

The Navajo interim rate will be developed pursuant to 10 CFR Part 903 and Delegation Order No. 0204–108 (48 FR 5564, December 14, 1983), as amended on May 30, 1986 (51 FR 19744).

Executive Order 12291

Under the provisions of section 3 of Executive Order 12291, dated February 17, 1981, a regulatory impact analysis must be made prior to the publication of a major rule. This proposal is of a technical nature and considered to be a nonmajor rule within the meaning of the Executive order. Western has an exemption from section 3, 4, and 7 of Executive Order 12291; accordingly, no clearance of these regulations by the Office of Management and Budget (OMB) is required.

National Environmental Policy Act

In compliance with the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality regulations, and the Department of Energy guidelines for compliance with NEPA, published in the **Federal Register** on February 23, 1982 (47 FR 7976), Western conducts environmental evaluations of certain rate and allocation actions. Due to the nature of this proposed rate increase, an environmental assessment will be prepared and copies will be available to interested persons upon request.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*), each agency, when required to publish a general notice of proposed rule, shall prepare for public comment an initial regulatory flexibility analysis to

describe the impact of the proposed rule on small entities. In this instance, this proposal relates to particular electric services and rates provided by Western. Under 5 U.S.C. 601(2), such rules and practices relating to services are not considered "rules" within the meaning of this Act. Accordingly, no regulatory flexibility analysis is required.

Paperwork Reduction Act of 1980

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) requires that certain information collection requirements be approved by the OMB before information is demanded of the public. OMB has issued a final rule on the Paperwork Burdens on the Public (48 FR 13666) dated March 31, 1983. Ample opportunity is provided for the interested public to participate in the development of the Navajo interim power rates. Nevertheless, this is at their sole election. There is no requirement that members of the public participating in the development of Navajo interim power rates supply information about themselves to the Government. It follows that the proposed Navajo interim power rates are exempt from the Paperwork Reduction Act.

Availability of Information

Data used in the development of the rate are available at the Boulder City Area Office for inspection and/or copying. Upon written request, interested parties will be provided copies of the principal documents used in developing the proposed rate. Written comments will be available for inspection at the Boulder City Area Office upon completion of the comment period.

Proposed Ratemaking Methodology and Rates

In accordance with section V of the Interim Plan, the additional rate components established pursuant to provisions of section 107 of the Act shall not exceed amounts which, when added to the rate components currently collected, will allow for "appropriate savings to the contractor as required by section 107(d) of the Act."

In order to determine what an "appropriate savings to the contractor" is, Western examined economy energy transactions within Arizona from Western's fuel replacement program, recognizing that the character of the Navajo surplus is somewhat different than fuel replacement program transactions. Fuel replacement program transactions are nonfirm interruptible energy sales that are generally made at 85 percent of the decremental fuel costs for a generating utility, or 85 percent of the highest alternative purchase price for a nongenerating utility, whereas Navajo power is unit contingent. The amount of fuel replacement energy sales using this pricing mechanism in the Boulder City area (over 2 billion kilowatthours for each of the last two fiscal years) are such that Western believes that the average sales price in Arizona for fuel replacement energy sales is a good measure of a rate which would result in an "appropriate savings to the contractor" in that State, as well as other States in the Boulder City marketing area. This would comprise the energy component of the rates for Navajo surplus rate. Certainly, if the purchaser of fuel replacement energy was not receiving an "appropriate savings," the sale would not have been made.

Experience with the fuel replacement program has indicated that an annual average energy rate for Navajo surplus would not be appropriate since there are four distinct time periods with significant different rates. These are: (1) Summer season onpeak, (2) summer season offpeak, (3) winter season onpeak, and (4) winter season offpeak. Experience also indicates that the fuel replacement market varies from year to year, depending on numerous factors, including available generation in the area, weather patterns, and the pricing of alternative generation. Therefore, the pricing of Navajo surplus energy cannot be tied to a single-year average, but must be flexible enough to take these variables into account and still meet the "appropriate savings" standard. Another standard which must be met is that of revenue stability for CAP. If the Navajo surplus energy rates were tied to a single-year average, income could be drastically reduced in some years and dramatically increased in a subsequent year. Therefore, a limit on the increase or decrease allowed in the Navajo surplus energy rates must be set. Additionally, energy cannot be sold below production costs and transmission operation and maintenance costs. This is true of the energy rate only. The capacity rate will be fixed for the life of the contract.

Establishing a capacity rate for Navajo surplus is appropriate as significant amounts of capacity are available during onpeak hours in the summer season. This capacity is unit-contingent capacity and is the major difference between fuel replacement transactions and the sales of Navajo surplus. Under the fuel replacement program, sales are interruptible in whole or in part. Under a single contingency outage at Navajo, the contractor would still receive two-thirds of its allocation. Therefore, a capacity value for the commodity is appropriate. No price for such a comparable commodity is readily available. Therefore, Western is proposing a price of $5 per kilowattmonth only for the summer season (March-September). The price will be applied to the maximum capacity scheduled to each contractor during each month.

Fuel replacement program rates for purchases by Arizona entities during the above-noted time periods were reviewed and used to develop average rates. These average rates were the basis for calculating the revised proposed Navajo interim energy rates. Application of the proposed ratemaking methodology yields the following revised proposed energy rates for Navajo surplus:

Summer Season (March-September)—
24.09 mills per kilowatthour
Winter Season (October-February)—
23.69 mills per kilowatthour

The revised proposed rates are in accordance with section V of the Interim Plan and include the additional rate component required by section 107 of the Act. These rates will be reviewed annually and will be revised, when necessary and administratively feasible, based on the average price of fuel replacement sales within Arizona during the three preceding fiscal years and appropriate production costs and transmission operation and maintenance costs. For the purpose of setting rates under the Interim Plan, production costs and transmission operation and maintenance costs will be based on the actual annual amounts billed the United States, in the year preceding the rate adjustment, by the Navajo operating agent in accordance with Navajo Project Agreements for operation and maintenance, including variable fuel costs, of the Navajo Generating Station and transmission system and other transmission systems needed to deliver the interim Navajo surplus. The energy rate must be set at a level that would yield revenue not lower than 115 percent of Navajo production costs and transmission operation and maintenance costs; except, the energy rates will not be allowed to either increase or decrease more than 3 mills per killowatthour in any adjustment in accordance with this ratemaking methodology.

Issued in Golden, Colorado, June 17, 1987.

William H. Clagett,

Administrator.

[FR Doc. 87–14392 Filed 6–22–87; 10:49 am]

BILLING CODE 6550-01-M

Federal Register

Wednesday
June 24, 1987

Part III

Department of Education

34 CFR Part 629

Veterans Education Outreach Program; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Part 629

Veterans Education Outreach Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations for the Veterans Education Outreach Program, formerly called the Veterans Cost-of-Instruction Payments Program. These amendments are needed to conform the regulations to the changes made in section 420A of Title IV of the Higher Education Act of 1965 by the Higher Education Amendments of 1986, Pub. L. 99–498 (October 17, 1986), and to establish criteria for the Secretary to exercise the authority to waive certain expenditure requirements of the program for individual institutions.

DATES: Comments must be received on or before July 24, 1987.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Neil McArthur, Veterans Education Outreach Program, Division of Higher Education Incentive Programs, Room 3022, ROB–3 (Mail Stop 3327), U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202. Telephone: (202) 732–4406.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Neil McArthur. Telephone (202) 732–4406.

SUPPLEMENTARY INFORMATION:

Background

The Veterans Education Outreach Program provides Federal financial assistance on a formula basis to all eligible institutions of higher education to provide special services to veterans.

The Secretary proposes several changes to conform the regulations to the Higher Education Amendments of 1986:

Name change. The name of the program would be changed from the "Veterans Cost-of-Instruction Payments Program" to the "Veterans Education Outreach Program."

Availability of awards. Awards made under VEOP would remain available for expenditure by the institution over a period not to exceed two academic years.

Minimum award. The minimum award an institution may receive would be $1,000, subject to the availability of appropriations.

Award amounts. In addition to payments for the two categories of veterans described in prior law, an eligible institution would receive a payment of $100 for each undergraduate student who has received an honorable discharge from military service but who is no longer eligible to or does not receive educational benefits under 38 U.S.C. Chapters 31 or 34.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant impact on a substantial number of small entities. These regulations would affect only non-profit institutions of higher education. They would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would retain minimal requirements from current regulations to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1980

Sections 629.10 and 629.32 of these regulations contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these proposed regulations to the Office of Management and Budget (OMB) for its review. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: Joseph F. Lackey, Jr.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 3022, Regional Office Building #3, 7th & D Streets SW., Washington, DC 20202 between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comments on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 629

Adult education, Colleges and universities, Education, Reporting and recordkeeping requirements, Veterans.

(Catalog of Federal Domestic Assistance, No.: 84.065: Veterans Education Outreach Program (VEOP))

Dated: June 19, 1987.

Thomas K. Turnage,

Administrator, Veterans Administration.

Dated: May 28, 1987.

William J. Bennett,

Secretary of Education.

The Secretary proposes to revise Part 629 of Title 34 of the Code of Federal Regulations to read as follows:

PART 629—VETERANS EDUCATION OUTREACH PROGRAM

Subject A—General

Sec.

Subpart B—How Does an Eligible Institution Apply for an Award?

Subpart C—How Does the Secretary Make an Award?

Subpart D—What Conditions Must a Grantee Meet?

Authority: 20 U.S.C. 1070e-1, unless otherwise noted.

Subpart A—General

§ 629.1 What is the Veterans Education Outreach Program?

The Veterans Education Outreach Program (VEOP) provides Federal financial assistance to institutions of higher education to provide certain services to veterans.

(Authority: 20 U.S.C. 1070e–1)

§ 629.2 Who is eligible for an award?

An institution of higher education, or any branch thereof which is located in a different community from that in which the parent institution is located, is eligible to receive an award if the institution or branch has—

(a) At least 100 veterans with honorable discharges in attendance as undergraduate students on April 16 or the current year; or

(b) Received an award under the Veterans Cost-of-Instruction Payments (VCIP) Program for a continuous period of three of the five most recent fiscal years ending on or before September 30, 1985.

(Authority: 20 U.S.C. 1070e–1)

§ 629.3 What definitions apply?

The following definitions apply to the regulations in this part:

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR Part 77:

Applicant
Application
Award
Department
EDGAR
Fiscal year
Grant period
Grantee
Secretary
State

(b) *Other definitions that apply to this part.* The following additional definitions apply to this part:

"Academic year" means a period beginning on July 1 and ending the following June 30.

"Counseling" means professional consultation on educational, vocational, personal, or family problems.

"Disabled veteran" means a veteran who—

(1) Is entitled to compensation, or who but for the receipt of military retired pay would be entitled to compensation, under laws administered by the Veterans' Administration;

(2) Was discharged or released from active duty because of a service-connected disability; or

(3) Has been certified by a physician as having a disability.

"Full-time student" means a student who is enrolled for the equivalent of not less than 12 semester hours and is being charged for tuition on the basis of the institution's full-time fee schedule.

"Institution of higher education" is defined in section 1201(a) of the Higher Education Act of 1965, as amended.

"Instructional expenses in academically related programs" means the funds expended by an instructional department of an institution of higher education for salaries, office expenses, equipment, and research.

"Outreach" means a coordinated, community-wide program of reaching veterans to encourage enrollment in, and completion of, postsecondary education, with special emphasis on educationally disadvantaged veterans, service-connected disabled veterans, other disabled or handicapped veterans, and incarcerated veterans within the institution's service area, including activities to determine their needs and to make appropriate referral and follow-up arrangements with relevant service agencies, as needed to encourage such enrollment and completion.

"Recruitment" means a concerted effort to enroll veterans in postsecondary training programs available at the institution or elsewhere.

"Special education programs" means remedial, tutorial, and motivational programs designed to promote success in postsecondary education.

"Student" means a person in attendance at an institution of higher education.

"Undergraduate student" means a student who is enrolled in an undergraduate course of study at an institution of higher education and has not been awarded a baccalaureate or first professional degree.

"Veteran" means a person who—

(1) Served on active duty in the Armed Forces for a continuous period of more than 180 days and was discharged or released with other than a dishonorable discharge;

(2) Was discharged or released from active duty in the Armed Forces because of a service-connected disability; or

(3) Is receiving or is eligible to receive benefits under 38 U.S.C. Chapter 30.

(Authority: 20 U.S.C. 1070e–1 1088)

§ 629.4 What regulations apply?

The following regulations apply to the Veterans Education Outreach Program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR Part 74 (Administration of Grants).

(2) 34 CFR Part 75 (Direct Grant Programs).

(3) 34 CFR Part 77 (Definitions that apply to Department Regulations).

(4) 34 CFR Part 78 (Education Appeal Board).

(b) The regulations in this Part 629.

(Authority: 20 U.S.C. 1070e–1, 1088)

§ 629.5 What activities may a grantee support with VEOP funds?

(a) Except as provided in § 629.30(b)(2), a grantee may use VEOP funds only for the following activities.

(1) Maintaining an office of veterans' affairs which has responsibility for veterans' outreach, recruitment, special education programs, and the provision of educational, vocational, and personal counseling to veterans.

(2) Carrying out programs designed to prepare educationally disadvantaged veterans for postsecondary education for which they are receiving benefits under 38 U.S.C. Chapter 34, Subchapter V.

(3) Carrying out active outreach (with special emphasis on service-connected disabled veterans, other disabled or handicapped veterans, incarcerated veterans, and educationally disadvantaged veterans), recruiting, and counseling activities, through the use of funds available under federally assisted work-study programs (with special emphasis on the veteran-student services program under 38 U.S.C. 1685)

(4) Carrying out an active tutorial assistance program for veterans, including disseminating information regarding the program, with special emphasis on making maximum use of the benefits available under 38 U.S.C. 1692.

(5) Assisting in the readjustment, rehabilitation, personal counseling, and employment needs of veterans.

(6) Coordinating activities carried out under this part with the Veterans Administration's—

(i) Readjustment counseling program authorized under 38 U.S.C. 612A; and

(ii) Programs of veterans employment and training authorized under the Job Training Partnership Act and under 38 U.S.C. Chapter 41 and 42.

(7) After the institution has carried out the activities described in paragraphs (a)(1)–(6) of this section, defraying instructional expenses in academically related programs.

(b) An institution may not use VEOP funds for a school or department of divinity or for any religious worship or sectarian activity.

(c) A grantee may use VEOP funds to pay travel expenditures only if the travel expenditures are incurred in connection with recruitment and outreach activities, or attendance at Department-sponsored meetings providing technical assistance or

Department-approved professional meetings.

(Authority: 20 U.S.C. 1070e–1)

Subpart B—How Does an Eligible Institution Apply for an Award?

§ 629.10 What are the application requirements?

(a) An institution applying for funds under this part must submit an application in the form prescribed by the Secretary.

(b) Each application must contain the following:

(1) Information that shows the institution is eligible for an award under this part.

(2) Information necessary for the Secretary to determine the amount of the payment to which the applicant would be entitled.

(3) An assurance that the institution, during the fiscal year for which payment is sought, will expend the amounts required under § 629.31.

(4) Plans, policies, assurances, and procedures to ensure that the institution will—

(i) Make an adequate effort to carry out the activities described in § 629.5(a)(1)–(6); and

(ii) Use any awarded funds remaining, after the institution has carried out the activities described in § 629.5(a)(1)–(6), solely to defray instructional expenses in its academically related programs.

(5) An assurance that the institution will not use VEOP funds for a school or department of divinity or for any religious worship or sectarian activity.

(6) An assurance that the institution will submit to the Secretary the reports required by § 629.32.

(Authority: 20 U.S.C. 1070e–1)

Subpart C—How Does the Secretary Make an Award?

§ 629.20 How does the Secretary calculate the amount of the award?

(a) Except as otherwise provided in this section, for each veteran who is in attendance as a full-time undergraduate student, the Secretary pays to each eligible applicant the following:

(1) $300 for each veteran who is receiving—

(i) Vocational rehabilitation under 38 U.S.C. Chapter 31; or

(ii) Educational assistance under 38 U.S.C. Chapter 34.

(2) $150 for each veteran who—

(i) Has been the recipient of educational assistance under 38 U.S.C. Chapter 34, Subchapter V;

(ii) Has a service-connected disability as defined in 38 U.S.C. 101(16); or

(iii) Is a disabled veteran as defined in § 629.3.

(3) $100 for each veteran other than those listed under (a) (1) and (2) of this section, who has received an honorable discharge from military service but who is no longer eligible to, or does not, receive educational benefits under 38 U.S.C. Chapters 31 or 34.

(b) The Secretary reduces the amount of payment awarded for each veteran attending the institution on a less than full-time basis in proportion to the degree to which that person is attending on a less than full-time basis.

(c) The total payment that the Secretary makes in any fiscal year to an institution, or to an eligible branch thereof, is at least $1,000 but does not exceed $75,000.

(d) The Secretary apportions funds which become available as a result of the limitation on payments described in paragraph (c) of this section so that all grantees under this part receive—

(1) A payment of $9,000 or the amount to which it is entitled under paragraphs (a) and (b) of this section for that fiscal year (but not less than $1,000), whichever is lesser; and

(2) Additional amounts up to the $75,000 maximum for each eligible institution or eligible branch thereof.

(e) If the amount appropriated for any fiscal year is not sufficient to make payments in the amounts to which all applicants are entitled, the Secretary ratably reduces those payments. If any amounts become available for a fiscal year after such reductions have been imposed, the Secretary increases the reduced payments on the same basis as they were decreased.

(Authority: 20 U.S.C. 1070e–1)

Subpart D—What Conditions Must a Grantee Meet?

§ 629.30 How must a grantee use its award?

(a) Except as provided in paragraph (b) of this section, a grantee shall use—

(1) At least 90 percent of the amount it receives under this part, or the amount of funds needed to provide services described in § 629.5(a)(1), whichever is greater, to provide those services;

(2) Any remaining awarded funds subject to this 90 percent limitation to carry out the activities in § 629.5(a)(2)–(6); and

(3) Any remaining awarded funds—

(i) First, to carry out the activities in § 629.5(a)(2)–(6); and

(ii) Then, to defray instructional expenses in its academically related programs.

(b)(1) The Secretary may waive the expenditure requirements of paragraphs (a) (1) and (2) of this section if he determines that the grantee is capable of adequately carrying out the activities described in § 629.5(a)(1)–(6) using less than 90% of its award. An institution that receives such a waiver may use any awarded funds remaining after carrying out the activities described in § 629.5(a)(1)–(6) to defray instructional expenses in its academically related programs, subject to any limitations imposed by the Secretary.

(2) In making the determination described in paragraph (b)(1), the Secretary may consider all aspects of the institution's programs for veterans, including, but not limited to the following:

(i) *Administration.* (A) Adequate identification of the veteran population in the institution's service area and adequate assessment of its needs related to postsecondary education;

(B) The employment of an adequate number of qualified staff members to support veterans' activities and services;

(C) The provision of adequate, prominently located, and accessible housing for the institution's office of veterans' affairs, in light of the institution's veteran student enrollment and physical environment; and

(D) The coordination of veterans' services with other campus services available to veterans, such as admissions, student financial assistance, counseling, job placement, and programs carried out by the Veterans Administration pursuant to 38 U.S.C.

(ii) *Outreach.* The establishment and maintenance of—

(A) Contact with veterans in the institution's service area;

(B) An effective procedure for assessing veterans' needs, problems, and interests related to postsecondary education; and

(C) An effective referral service involving agencies providing assistance in areas such as housing, employment, health, recreation, vocational and technical training, and financial assistance as such services are related to encouraging the pursuit of postsecondary education.

(iii) *Recruitment.* The establishment and maintenance of procedures for bringing veterans into programs of postsecondary education most suited to their educational and career aspirations, including such techniques as publications, use of mass media, and personal contacts.

(iv) *Special Education Programs.* The establishment and maintenance of support from appropriate departments of the institution for special remedial,

motivational, and tutorial programs for veteran students.

(v) *Counseling.* The establishment and maintenance of ready access by veteran students to professional assistance and consultation on personal, family, educational, and career problems.

(c) If an institution cannot carry out all of the activities specified in § 629.5(a)(1)–(6) due to limited veteran enrollment, the Secretary may permit one or more of the required activities to be carried out through a consortium agreement with one or more institutions of higher education.

(d) An award made in any fiscal year remains available for expenditure by the grantee for up to two academic years.

(Authority: 20 U.S.C. 1070e–1)

§ 629.31 What are the matching requirements?

(a) During the fiscal year for which it receives an award, a grantee shall expend from non-Federal sources—

(1) For all academically related programs of the institution, an amount at least as great as the average amount it expended for such programs during the three years preceding the grant year; and

(2) For the activities described in § 629.5(a), an amount at least as great as the amount of the grant.

(b) The Secretary applies the rules in 34 CFR Part 74, Subpart G, in assessing an institution's compliance with paragraph (a)(2) of this section.

(Authority: 20 U.S.C. 1070e–1)

§ 629.32 When must a grantee submit a proposed budget?

The grantee shall submit a proposed budget for the use of the funds it is awarded in any fiscal year under this program to the Secretary within 90 days of receipt of notice of its award.

(Authority: 20 U.S.C. 1070e–1)

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Federal Register

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Daily Federal Register

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Laws 523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
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United States Government Manual 523-5230

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Library	523-5240
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TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JUNE

20371-20590.....1
20591-20694.....2
20695-21000.....3
21001-21238.....4
21239-21492.....5
21493-21650.....8
21651-21930.....9
21931-22286.....10
22287-22430.....11
22431-22628.....12
22629-22752.....15
22753-23006.....16
23007-23164.....17
23165-23264.....18
23265-23420.....19
23421-23536.....22
23537-23628.....23
23629-23778.....24

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

304.....22753, 23627
305.....23629
310.....23629

3 CFR

Proclamations:
5631 (*See* U.S. Trade Representative Notice).....22693
5663.....20695
5664.....21239
5665.....23007
5666.....23009
5667.....23011
5668.....23165
5669.....23537
5670.....23539
5671.....23541

Administrative Orders:
Presidential Determinations:
No. 87-14 of June 2, 1987.....22431

Executive Orders:
12576 (Superseded by EO 12598).....23421
12598.....23421

5 CFR

831.....22433
842.....22435
843.....23013
845.....23014
1600.....20591
1640.....20371

Proposed Rules:
213.....23040
890.....22475

7 CFR

1d.....20372
2.....21493, 21494, 21931
4.....21651
51.....22436
246.....21232
272.....20376, 22888
273.....20376, 22888
330.....22892
340.....22892
418.....23423
419.....23423
422.....23424
427.....23423
429.....23423
724.....22287
725.....22287
726.....22287
900.....20591
910.....20380, 21241, 22437, 23265
912.....21241
918.....21494, 23014
923.....20381
925.....20382
948.....23014
953.....23014
1106.....20383
1736.....22288
1922.....23543
1930.....20697
1944.....23543
1945.....20384
1951.....23543
1980.....22290

Proposed Rules:
220.....23041
226.....22030
250.....22660
251.....21545
401.....22476
656.....20606
907.....21546
908.....21546
925.....20402, 21960
928.....21065, 22888
959.....21068
1011.....23453
1033.....23306
1046.....23306
1065.....21560
1944.....21069
3016.....21820, 23627

8 CFR

100.....22629
103.....22629
214.....20554

Proposed Rules:
207.....23307
214.....22661

9 CFR

51.....22290
78.....22290, 22292, 23015
92.....21496
381.....23016

Proposed Rules:
91.....21688
309.....21561
310.....21561
314.....21561
327.....23041
362.....21563
381.....23041

10 CFR

Ch. I.....20592
70.....21651, 22416, 23257
72.....21651, 23257
73.....21651, 23257
74.....21651, 23257

Proposed Rules:
600.....21820, 23627
625.....22960

1004.....23156
1013.....20403

11 CFR

4.....23636
5.....23636
106.....20864
9001.....20864
9002.....20864
9003.....20864
9004.....20864
9005.....20864
9006.....20864
9007.....20864
9012.....20864
9031.....20864
9032.....20864
9033.....20864
9034.....20864
9035.....20864
9036.....20864
9037.....20864
9038.....20864
9039.....20864

12 CFR

225.....23021
309.....23425
337.....23543
563.....23640

Proposed Rules:

3.....23045
18.....23456
211.....21564
225.....21564
262.....21564
350.....23554
404.....21569
571.....23181
588.....23181
614.....21073

13 CFR

121.....21497
309.....21932

Proposed Rules:

143.....21820, 23627

14 CFR

21.....23024
25.....23024
39.....20698-20701, 21242-21244, 21497, 21659, 22630, 23427, 23428, 23641-23645
71.....20702, 20703, 21246-21248, 21498-1499, 22630, 23138, 23429, 23430
73.....21246-21250, 21499
75.....21247-21251
91.....22734
97.....21500, 23430
121.....20950, 21472
135.....22734
159.....21502, 21908, 23762
171.....20703
300.....21150
1207.....22755

Proposed Rules:

Ch. I.....22329
27.....20938
29.....20938
36.....23144
39...20721, 20722, 21312, 21314, 21572-21575, 22329, 22331, 22786, 23461-23466, 23661-23663
61.....22918
71.....20412, 20825, 21316, 22031, 22332, 22918, 23468-23470
91.....22918, 23144
121.....20560, 20982
135.....20560
234.....22046
255.....22046

15 CFR

371.....23026, 23027, 23167
373.....22631, 23167
374.....23027, 23167
379.....21504
385.....23167, 23544
399.....22631, 23167, 23169, 23544

Proposed Rules:

24.....21820, 23627

16 CFR

3.....22292
4.....22292
305.....22633

Proposed Rules:

13.....20723, 22789

17 CFR

Ch. IV.....23138
5.....22634
31.....22634
140.....20592, 22415
210.....23170
211.....21933
229.....21252, 21934
230.....21252
239.....21252, 21934
240.....21252, 21934, 22295, 23646

Proposed Rules:

33.....22333
240.....22334, 22493, 23665
250.....23679
270.....22334, 22496

18 CFR

2.....21410
154.....21263, 21660, 23030, 23650
270.....21669
271.....21660, 23030
284.....21669
300.....20704
375.....21263, 23650
382.....21263, 23650

Proposed Rules:

2.....23183
4.....21576, 23557
12.....23557
154.....20828
161.....21578
250.....21578
282.....20828
375.....20828
380.....23183
381.....20828

19 CFR

4.....20593
24.....20593
101.....22299
146.....20593
178.....20593

Proposed Rules:

201.....21317

20 CFR

404.....21410
416.....21939
654.....20496
655.....20496
656.....20593

Proposed Rules:

61.....20536
62.....20536
626.....23681
627.....23681
628.....23681
629.....23681
630.....23681
631.....23681

21 CFR

74.....21302, 21505
81.....21302, 21505
82.....21505
178.....22300
193.....23137
201.....21505
312.....23031, 23628
442.....20709
510.....20385, 20597, 23397
520.....20597, 29598
522.....23031
544.....22438
561.....23137
573.....21001
866.....22577
868.....22577
870.....23137
876.....22577
890.....22577
1301.....20598

Proposed Rules:

310.....23184
1240.....22340

22 CFR

224.....20385

Proposed Rules:

41.....20725, 22628
135.....21820, 23627
224.....20413
526.....22791

23 CFR

668.....21945

Proposed Rules:

650.....20726

24 CFR

Proposed Rules:

85.....21820, 23627
111.....21820, 23627
200.....21596, 21961
203.....21961
221.....21961
222.....21961
226.....21961
234.....21961
235.....21961
247.....23761
511.....21820, 23627
570.....21820, 23627
571.....21820, 23627
575.....21820, 23627
850.....21820, 23627
886.....23761
905.....21820, 23627
941.....21820, 23627
968.....21820, 23627
990.....21820, 23627

25 CFR

700.....21950

Proposed Rules:

76.....20727
151.....23560

26 CFR

1.....22301, 22764, 23398, 23432
31.....21509
602.....21509, 22764, 23432

Proposed Rules:

1.....22345, 22716, 22795, 23308, 23471
602.....23308, 23471

27 CFR

9.....21513, 22302, 23650, 23651

Proposed Rules

4.....23685
5.....23685

28 CFR

2.....22777
541.....20678
602.....22438, 22439

Proposed Rules:

2.....22499
16.....22795
32.....23561
66.....21820, 23627

29 CFR

90.....23400
1952.....21952
2619.....22635
2676.....22636

Proposed Rules:

7.....22662
22.....20606
97.....21820, 23627
501.....20524
511.....20386
1470.....21820, 23627
1926.....20616, 22799
2201.....23185
2640.....21319
2646.....21319

30 CFR

250.....22305
251.....23440
700.....21228
870.....21228
935.....23265
938.....23172

Proposed Rules:

700.....20546
701.....21598
702.....20546
750.....20546, 21328
764.....21904
769.....21904
842.....21598
843.....21598
870.....20546
910.....20546
912.....20546
914.....22346

921.....20546
922.....20546
925.....22499, 22500
933.....20546
937.....20546
939.....20546
941.....20546
942.....20546
947.....20546

31 CFR

Proposed Rules:
16.....21689
103.....21699

32 CFR

40.....23267
40a.....23298
166.....23298
706.....21001, 21002, 21679-21681, 23173, 23545, 23546

Proposed Rules:
68.....22662
199.....20731
278.....21820, 23627

33 CFR

4.....23653
100.....20386, 21002, 21515, 22307, 22308, 22439, 23174
117.....21953, 23441
135.....23175
165.....23442
207.....22309

Proposed Rules:
100.....21603, 21604, 22347
117.....21605, 23187, 23472
240.....23687

34 CFR

649.....22284
760.....22441

Proposed Rules:
74.....21820, 23627
80.....21820, 23627
99.....22250
222.....22501, 23137
607.....22264
608.....22274
609.....22274
629.....23774
631.....22948
632.....22948
633.....22948
634.....22948
635.....22948
692.....23260
763.....21920
785.....22062
786.....22062
787.....22062
788.....22062
789.....22062

36 CFR

7.....20387, 23304
59.....22747
211.....23175
1254.....22415

Proposed Rules:
7.....22031, 22662
211.....22348
223.....22348, 23188
254.....23473
1207.....21820, 23627

37 CFR

202.....23443
307.....22637, 23546

Proposed Rules:
202.....23476, 23691

38 CFR

Proposed Rules:
1.....21700
3.....23188
8.....22350
17.....22351
21.....21709
36.....20617
43.....21820, 23627

39 CFR

111.....20388
265.....22778
963.....20599

Proposed Rules:
111.....23308, 23477, 23561

40 CFR

52.....22638, 22778, 23032, 23446
60.....20391, 21003, 22779, 22888, 23178
61.....20397, 23178
81.....22442
141.....20672
142.....20672
144.....20672
180.....21953, 23039, 23653, 23654
260.....21010
261.....21010, 21306
262.....21010
264.....21010
265.....21010
266.....21306
268.....21010
270.....21010, 23447
271.....21010
272.....22443
704.....21018
707.....21412
716.....22444
761.....23397
766.....21412
795.....21018
799.....20710, 21018, 21516, 23547, 23761

Proposed Rules:
Ch. I.....22244, 23477
30.....21820, 23627
33.....21820, 23627
52.....20422, 21974, 22501, 22503, 23485, 23692
61.....23486
81.....21074
86.....21075
123.....23487
180.....20751, 20753, 21794, 21974, 23694
228.....20429, 21082, 22352
260.....20914
264.....20754, 23695
265.....20754, 20914, 23695
268.....22356
270.....20754, 20914
372.....21152
700.....20494
712.....23627, 23628
750.....23054

41 CFR

101-26.....23656
101-40.....21031, 23137
101-41.....21682, 21683
105-53.....23656

Proposed Rules
105-60.....23697

42 CFR

2.....21796
34.....21532
57.....20986
58.....23179
110.....22311
405.....22444, 22638, 23628
409.....22638, 23628
413.....21225, 23397
416.....22444
417.....22311
420.....22444
431.....22444
434.....22311
442.....22638, 23628
485.....22444
489.....22444
498.....22444
1001.....22444
1004.....22444

Proposed Rules:
34.....21607
57.....20989, 21486, 21490, 22415
405.....22080, 23055, 23514
412.....22080, 22359, 23514
413.....20623, 21330, 22080, 23514
466.....22080, 23514

43 CFR

4.....21307
11.....22454
3100.....22646

Public Land Orders:
6566 (Corrected by PLO 6648).....21035
6648.....21035
6649.....23549
6650.....23549

Proposed Rules:
2.....20494
4.....20755
12.....21820, 23627
1820.....22592
3000.....22592
3040.....22592
3100.....22592
3110.....22592
3120.....22592
3130.....22592
3150.....22592
3160.....22592
3180.....22592
3200.....22592
3210.....22592
3220.....22592
3240.....22592
3250.....22592
3260.....22592

44 CFR

64.....21794, 22780
65.....22323, 22324
67.....22325
81.....21035

Proposed Rules:
13.....21820, 23627
65.....22360
67.....22800, 23310

45 CFR

1204.....20714
2001.....22646, 22648

Proposed Rules:
13.....23311
92.....21820, 23627
1157.....21820, 23627
1174.....21820, 23627
1179.....20628
1183.....21820, 23627
1234.....21820, 23627
2015.....21820, 23627

46 CFR

32.....22751, 23515
77.....22751
92.....22751
96.....22751
150.....21036
190.....22751
195.....22751
276.....23522
310.....21533
386.....21534

Proposed Rules:
558.....20430
559.....20430
560.....20430
561.....20430
562.....20430
564.....20430
566.....20430
569.....20430
586.....20430

47 CFR

0.....21684
1.....21051, 22654
2.....21686
15.....21686, 22459
21.....23549
22.....22461
31.....20599
32.....20599
64.....20714, 21954, 23658
67.....21537
69.....21537
73.....21056, 21308, 21684, 21955-21958, 22472, 22473, 22781-22785, 23305, 23551 23659
76.....22459
94.....23549

Proposed Rules:
1.....21333
2.....21333
21.....21333
22.....20630
73.....20430-20432, 21086, 21976, 22504-22507, 22816-22818, 23314, 23563-23569 23704
74.....21333, 21710
80.....21334, 22508
87.....21334
90.....21335
94.....21333

48 CFR

5.....21884
6.....21884
13.....21884
15.....21884

LIST OF PUBLIC LAWS

Last List June 23, 1987.

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202–275–3030).

S. 626/Pub. L. 100–55

To prohibit the imposition of an entrance fee at the Statue of Liberty National Monument, and for other purposes. (June 19, 1987; 101 Stat. 371; 1 page) Price: $1.00